



ADOT ROW Bridging the Gap
With the Local Public Agents

ARIZONA DEPARTMENT OF TRANSPORTATION

RIGHT OF WAY QUALIFICATION

OF

Local Public Agents

Prepared by: Louis J. Malloque,
Right of way Agent III
Liaison to Local Public Agents

ADOT Right of Way Liaison

ADOT Contact:

**Louis J. Malloque, Arizona Department of
Transportation
Right of Way Agent III,
ADOT Liaison to the Local Public Agents
(602) 712-8755**

lmalloque@azdot.gov

Please refer to the **ADOT Right of Way Manual**

It can be found at:

www.azdot.gov/highways/row/project.asp

<http://www.fhwa.dot.gov/realestate>

ADOT Right of Way Liaison

ADOT Contact:

**Matt Tolman, Arizona Department of
Transportation
Right of Way Agent III,
ADOT Liaison to the Local Public Agents
(602) 712-4701**

mtolman@azdot.gov

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Outline for “Qualifying LPA Individuals”

Explain that the qualification goes to the individual and **NOT** the LPA. It is imperative that the LPA notify ADOT ROW Liaison when a qualified employee leaves, because the qualification also goes.

Explain why, where we get the authority to ask them to be qualified, besides FHWA saying so:

The ADOT (STD/LPA) has the overall responsible assuring the acquisition, management, and disposal of real property on Federal-aid projects. This is identified in 23 CFR 710.201(a) (b); procurement of contracting activities is noted in 710.201 (g); and regulation regarding LPA's is in 710.201 (h), all noted as follows:

§ 710.201 State responsibilities.

(a) *Organization.* Each STD shall be adequately staffed, equipped, and organized to discharge its real property-related responsibilities.

(b) *Program oversight.* The STD shall have overall responsibility for the acquisition, management, and disposal of real property on Federal-aid projects. This responsibility shall include assuring that acquisitions and disposals by a State agency are made in compliance with legal requirements of State and Federal laws and regulations.

(g) *Procurement.* Contracting for all activities required in support of State right-of-way programs through use of private consultants and other services shall conform to 49 CFR 18.36.

(h) *Use of other public land acquisition organizations or private consultants.* The STD may enter into written agreements with other State, county, municipal, or local public land acquisition organizations or with private consultants to carry out its authorities under paragraph (b) of this section. Such organizations, firms, or individuals must comply with the policies and practices of the STD. The STD shall monitor any such real property acquisition activities to assure compliance with State and Federal law and requirements and is responsible for informing such organizations of all such requirements and for imposing sanctions in cases of material non-compliance.

ADOT Audit Procedures

- Presentation Slides
- ADOT Audit Workshop Outline
- Audit Laws, Rules, and Regulations
- Changes, Clarifications and Additions for LPAs
- Minimum Scope requirements for the appraiser by FHWA
- Stewardship and Oversight of LPAs
- Summary Statement of Offer to Purchase and Improvement Report
- Sample Contact Report

ADOT LPA Workshop

- Presentation Slides
- ADOT/LPAs Workshop Quick Reference
- Parcel Checklist
- Scope of Work
- Some Ways to Lose Your Money
- Process Elements plus CFR Citations
- Market Analysis Worksheet
- Sample Right of Way Certification Document
- Waiver of Compensation
- Just Compensation Memo to File

Tempe Workshop

- Presentation Slides
- LPA Acquisition Process
- Acquisition Checklist
- Local Public Agent Training
- Minimum Scope Requirements for Appraiser
- Preparing an Appraisal Scope of Work
- Contact Report (word document)
- Items that are Needed in the Parcel File
- Parcel Folder Setup: Left Side & Right Side

ADOT ROW Project Manual:

Chapter 9 Local Agency Qualification Procedures

9.01 Purpose

The purpose of this chapter is to present qualification procedures to be followed by the Arizona Department of Transportation in working with local agencies.

9.02 Qualification Process

Qualification is the process whereby ADOT approves the local agency's policies and procedures for the right of way acquisition. ADOT is authorized to exercise this approval pursuant to Title 23 CFR 710.201 (h). Qualified Status allows the local agency to perform acquisition-related activities for Federal-aid projects.

9.04 Post Qualification Procedures

- a. Due to possible changes of personnel within local agencies, and various changes in federal and state laws and requirements, a review of all qualified agencies must be made periodically to determine if their staff and procedures are still adequate to perform in conformance with state and federal requirements. At the time of review, the local agencies can also be made aware of any changes in policies or procedures made since the date of the previous review.
- b. Local agencies that have not utilized their qualification in an extended period will be reviewed prior to their starting any new projects.
- c. Local agencies are required to notify the Right of Way Local Agency Coordinator of any policy changes affecting the procedures under which they were qualified.

Go over briefly, standard qualifications of a ROW agent "What is a ROW Agent's Qualification".

Explain that if they get qualified they will still have to submit a few PROJECTS for review before we actually turn them loose. They will be required to keep the ADOT ROW Liaisons informed of all acquisitions and their progress. Remind them we are still the only ones allowed to clear ROW. This is for Acquisition qualification only, NO RELOCATION.

All projects that have \$1 or more of Federal funds in any phase of the project are considered to be federalized and all federal rules and regulations must be followed, especially the Uniform Act.

What are the two (2) basic Federal Rules/laws that govern acquisitions and relocations?

Ask them to describe the Project Process from start to construction ("Project Development Activities") ("There are Five (5) Basic Phases to a Project").

Ask if they know the "Steps in Land Acquisition"; please cite them.

Ask the individual the 38 questions for the LPA ROW Agent (No Relocation Questions) ("Questions for the LPA ROW Agent").

Briefly go over the "Changes, Clarifications, and Additions---". When explaining the Administrative Settlement, show them the form.

Explain: Consequences of Uniform Act anomalies; ADOT is main source for information; AZPR2X and its uses; No more R/W self-administration, except for the elite 8; Its easier to ask before and easier to PREVENT—then ask for help correcting and for FORGIVENESS later.

Why set-up of ROW file/what all is there and ADOT Manual.
www.azdot.gov/highways/row/project.asp

<http://www.fhwa.dot.gov/realestate>

Ask the Questions for the "ADOT Workshop Quiz", (exclude Relocation ones).

Go over the "Acquisition and Negotiation File Review".

Mention all the forms on the ADOT website and what they do.

QUESTIONS?

What is a ROW Agent's Qualifications

Definition

Perform highly technical right-of-way and other property-related work for District sewage collection systems, pumping stations, and plant facilities; identify and obtain real property rights; administer outside right-of-way consultant contracts; and may provide lead guidance and training to other technical engineering staff on assigned projects.

Distinguishing Characteristics

The seasoned Right-of-Way Agent recognizes the assignment of work, which requires knowledge, skills, and abilities generally reserved for experienced project staff. Positions assigned to this class are responsible for the more difficult and complex right-of-way work involving acquisition of residential and all kinds of businesses/agricultural/industrial. Specific projects may require incumbents in this class to provide less experienced technical staff with instruction, training, and work assignments as necessary, in the context of a lead role on a project team. Work performed by seasoned Right-of-Way Agents is normally reviewed only upon completion and for overall results. Thorough knowledge of the **Uniform Act**

Supervision Received and Exercised

Receive direction from higher level professional or management personnel.

Exercise technical and functional supervision over lower level engineering staff as assigned.

Examples of Essential Duties

Duties may include, but are not limited to, the following:

Perform the more difficult and complex right-of-way and other property-related work.

Evaluate right-of-way and other property-related issues and develop and recommend solutions.

Prepare estimates, budgets and schedules for right-of-way and property-related work.

Review and interpret plans and specifications; make right-of-way and other property-related recommendations for compliance with District standards.

Respond to technical questions regarding right-of-way and property-related issues; make public presentations.

May serve in a contract review and monitoring capacity as assigned; provide District counsel and department heads with pertinent contract documents.

Work closely with survey crew, plan review staff, and right of way personnel in determining accurate measurements and resolving field problems as they arise.

Establish and maintain a variety of records, files, and related documents.

Prepare a variety of clear and concise technical reports as assigned.

Contact other agencies and utilities to review and resolve field problems relating to right-of-way or other property issues.

Revise District standard right-of-way acquisition and consulting contracts as assigned.

Investigate properties regarding ownership, restrictions, zoning, easements, etc.

Acquire or dispose of property rights including coordinating the work of appraisers, engineers, surveyors, real estate agents, land title agents, and engineering technicians.

Prepare and handle execution of instruments pertaining to property rights.

Review in-house valuations and estimates and review appraisals prepared by consultants for the acquisition of easements.

Gather and analyze data, prepare reports, legal descriptions, and documents relating to and negotiate with property owners to acquire easements, rights-of-way, licenses, permits, leases, and other property rights.

Coordinate with other staff, management and legal counsel regarding complex property rights issues including eminent domain proceedings.

Assist in the development or revision of policies and procedures related to right-of-way and other property rights issues.

Assign project work to technical engineering staff as appropriate; train and instruct less experienced personnel in project engineering work. Perform related duties as required.

Minimum Qualifications

Knowledge of:

Principles, practices, methods, and techniques of engineering design as they apply to right-of-way and other property-related issues for sewage collection systems, the treatment plant, pumping stations, and related facilities.

Surveying principles, practices, nomenclature, symbols, and equipment.

Principles and applications of mathematics including algebra, trigonometry, and geometry applicable to right-of-way and property-related issues.

Principles and practices of acquiring, appraising and negotiating for real property.

Property deeds and legal descriptions of property.

Policies and regulations governing the construction, extension, easement requirements for, and maintenance of District sewer systems and facilities.

Safety hazards and appropriate precautions applicable to work assignments.

Ability to:

On a continuous basis analyze and prepare right-of-way and property-related documents and reports, know right-of-way and property-related requirements and procedures, observe field conditions, remember previous projects and studies, and understand laws and regulations pertaining to right-of-way and property-related issues.

Intermittently analyze and interpret specifications and plans, identify and problem solve issues; and explain technical issues.

Intermittently walk and stand to review project sites; bend, squat, climb, kneel, and twist to check property; perform simple and power grasping, pushing and pulling; write or use keyboard to communicate through written means; lift or carry weight of 25 pounds or less.

Respond appropriately to technical questions regarding right-of-way and property-related issues Monitor and administer contracts with outside right-of-way consultants.

Communicate clearly and concisely, orally and in writing.
Provide technical training advice to less experienced personnel.
Assign and review the work of other assigned right-of-way personnel.

Read and interpret engineering plans, specifications, blueprints, survey notes, and related materials.

Perform technical and complex calculations with accuracy.

Analyze data and make sound recommendations based upon analysis.

Research and solve complex problems related to land use and land acquisitions.

Establish and maintain accurate and complete hard copy and computer records and files.

Maintain productive working relationships with others encountered in the course of work.

Inspect field construction work and identify right-of-way or other property-related problems and discrepancies.

Experience and Education

Any combination equivalent to experience and education that could likely provide the required knowledge and abilities would be qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Thorough knowledge of Right of Way principles in a working environment.

Chapter 8 Local Agency Assistance Program

8.01 Purpose

The Arizona Department of Transportation has the obligation to aid cities and counties in obtaining maximum utilization of available federal funding for qualifying transportation projects. Federal Highway procedures require the State to administer Federal-aid projects within the rules and regulations required by federal legislation. In fulfilling these obligations, ADOT's goal is to encourage and assist cities and counties to develop the capacity to administer their own Right of Way Programs in conformance with state and federal standards.

8.02 Responsibilities

- a. The Right of Way Local Agency Coordinator of the Project Management Section shall maintain appropriate communication with the Transportation Planning Division, Local Government Roads Services, Environmental Planning Services, and all Right of Way Sections in order to be thoroughly informed concerning planning, programming, development, and progress for all local agency projects.
- b. In the context of this statement, a local agency generally will mean a city or a county. The term may also be applied to any other governmental subdivision, or non-profit entity, for which the State is required by law or contract to perform or monitor right of way services.
- c. It is necessary to recognize the complexity of right of way requirements for Federal-aid projects. Many cities and counties lack adequately trained personnel to perform the necessary technical tasks, and the infrequency of projects requiring right of way precludes the expenditure necessary to maintain a permanent staff.
- d. The Department recognizes its responsibility for providing, upon request, technical assistance as well as staff to accomplish the right of way needs for a given project. It is understood that Local Agencies will abide by the rules and regulations required by Federal legislation.

8.03 Prime Functions

The following are the prime functions of Right of Way Local Agency Coordinator:

- a. Assist local agencies to plan and carry out right of way acquisition for federal-aid projects in conformance with applicable federal and state laws, regulations and procedures.
- b. Monitor local agency right of way acquisition on Federal-aid projects, including all stages of appraisal, negotiation and relocation, to insure to the greatest extent possible that such projects conform to federal requirements.
- c. Monitor consultant right of way activities on Federal-aid or state funded projects, including all phases of negotiation and relocation, to insure to the greatest extent that such projects conform to Federal and State requirements.

- d. Preliminary Information – The R/W Local Agency Coordinator shall contact local agencies contemplating highway projects involving use of federal funds, and shall furnish information to such agencies regarding federal and state laws and regulations, inform them of state right of way services available, and explain the project monitoring and compliance certification procedure.
- e. Training Local Agency Personnel – The R/W Local Agency Coordinator shall coordinate training of local agency personnel in right of way matters through on-the-job training at the Right of Way Group State offices, or at the local agency offices.
- f. Introductory meeting shall be held to:
 - 1. Review regulatory & statutory material
 - 2. Review ADOT manual parts, forms
 - 3. Establish monitoring schedule
 - 4. Schedule progress meetings and delivery of status reports
 - 5. Establish Milestones at which to conduct evaluation of consultant (25%, 50%, 75%, Final)
- g. Qualification – The R/W Local Agency Coordinator shall inform local agencies of standards and procedures for necessary to qualify right of way personnel, and shall assist such agencies in becoming qualified.
- h. Certification – The R/W Local Agency Coordinator shall report such information as is required for a Certification of Compliance.
- i. Procedures – The R/W Local Agency Coordinator may prepare sample forms for the guidance and possible use of local agencies. Subject to approval of the Chief of Right of Way Agent, the R/W Local Agency Coordinator may issue procedures for accomplishing Federal-aid right of way activities by local public agencies.

8.04 Types of Projects Covered

Types of projects covered include highways and non-highways projects are as follows:

- a. Highways – Projects on public streets and highways are the primary responsibility of the, Arizona Department of Transportation, hereafter called the Department. The responsibility falls into certain categories:
 - 1. The Department performs work – the Department may be requested to perform right of way services for another agency. These services will be based on a contract with the other agency compensating the Department for the actual cost.
 - 2. Local Agency performs work – On certain federally funded projects the Department may determine that the local agency's staffing policies and adequate, and must determine that the procedures used by the agency are in accordance with the applicable laws and regulations. The

Department must monitor the local agency's work and certify that it was in full conformance with federal laws and regulations. The responsibility for monitoring right of way activities is delegated to the R/W Local Agency Coordinator of the Right of Way Project Management Section.

3. Consultant performs work – on Federal-aid or state funded projects, the Department may retain a consultant to perform those services usually completed by ADOT staff Acquisition or Relocation services. The Department must monitor the consultant's work and certify that it was in full conformance with federal laws and regulations.
- b. Non-Highways – The R/W Local Agency Coordinator normally will not monitor non-highway projects. However, should the need arise to do so, specific procedures for that particular project will be developed.

8.05 Responsibilities of Organization

Primary responsibilities of organizations covered by these procedures include:

- a. Federal Highway Administration – This agency has the responsibility for administering the Federal Highway Acts. They must be assured that the appropriate procedures and laws were complied with on any project on which federal funds participate. Toward this end, they require compliance assurances from ADOT.
- b. Arizona Department of Transportation – The Department has the responsibility for administering the transportation needs of the State. It also has the responsibility for coordinating the Federal-aid Program for cities and counties. As part of this coordination, the Department must review work done by the cities and counties and provide compliance assurances to the Federal Highway Administration.
- c. Highway Development Group – This Group is responsible for undertaking all the activities relating to the design and plans preparation for the highway facilities.
- d. Right of Way Group – This group has the responsibility for the Department's acquisition of all property rights required for construction of state highway projects. It also has the responsibility for certifying right of way on all projects that are financed in whole or part by federal funds. Therefore, this section must become involved in all local agency projects that are funded with federal funds.
- e. Local Agencies – The Local Agencies have the responsibility of performing right of way activities in conformance with federal laws and regulations.
- f. Project funding concerning federal money is referenced in the Right of Way Operations section, Org. 9310 of the Right of Way Procedures Manual.

8.06 Summary of Activities

A brief summary of activities performed by the Right of Way Group is given below. Actual activities performed vary depending upon the specific nature of a subject project.

- a. Information Sharing – The Right of Way Group has a duty to make known to all agencies the specific requirements for the various types of projects. With this information service, the Group has an obligation to assist other agencies in becoming educated in the proper procedures to be utilized in the appraisal, acquisition, relocation, and property management functions that are required on all federal-aid highway projects.
- b. Qualification – The Right of Way Group has the responsibility for advising local agencies how they can become qualified. It has responsibility for the review of these agencies' procedures to determine if they can be qualified, and the review of their assurance statements for adequacy.
- c. Monitoring – The Right of Way Group is obligated on certain projects to review other agencies work to determine whether appropriate procedures have been followed. This is to assure that federal funds will not be lost by these agencies. Where a consultant is employed by ADOT to perform right of way activities, work must be reviewed / monitored to assure compliance with state and federal laws and regulations.
- d. Certification – The Right of Way Group is required to certify local agency projects where Federal Highway Administration funds participate in project costs. This certification contains statements as to the rights of way acquired and procedures followed.
- e. Planning – The Right of Way Group should assist local agencies in planning their projects. This assistance is particularly necessary in regard to establishing proper lead-times for projects.
- f. Compliance assurance – The Right of Way Group must establish specific means to enforce compliance with legal and policy requirements by local agencies. This is necessary to insure that federal funds are not lost.
- g. Contract Services – The Right of Way Group has the capability of performing services for other agencies. Upon local agency request, an Intergovernmental Agreement may be drafted for execution by both parties. This is particularly important where the agency cannot properly perform the services itself and may therefore lose the project without such assistance. The Right of Way Group may also employ a consultant to provide the necessary acquisition or relocation function.
- h. Supervision of Other Personnel – From time to time the R/W Local Agency Coordinator may request assistance in monitoring a specific function. The Project Management Section Manager will coordinate work of personnel assigned to perform monitoring duties.
- i. Legal basis for Providing Right of Way Services and Monitoring – Right of Way services and monitoring will be accomplished in accordance with applicable federal and state laws and regulations.

Chapter 9 Local Agency Qualification Procedures

9.01 Purpose

The purpose of this chapter is to present qualification procedures to be followed by the Arizona Department of Transportation in working with local agencies.

9.02 Qualification Process

Qualification is the process whereby ADOT approves the local agency's policies and procedures for the right of way acquisition. ADOT is authorized to exercise this approval pursuant to Title 23 CFR 710.201 (h). Qualified Status allows the local agency to perform acquisition-related activities for Federal-aid projects.

9.03 Qualification Procedures

In order to be qualified, each local agency must submit a request for an evaluation of its right of way qualifications and procedures.

- a. The ADOT R/W Local Agency Coordinator will:
 1. Arrange a meeting with the local agency and explain state and federal requirements and methods to be utilized by the local agency in obtaining qualification.
 2. Advise the local agency that they may adopt the State's policy and procedures or adopt their own in compliance with the division.
 3. Advise the local agency that they will be subject to monitoring to insure conformance. It should be stressed that failure to conform to accepted policies and procedures could result in loss of reimbursement for all or part of a project.
- b. When the local agency desires to be qualified for Relocation Assistance Program work, the R/W Local Agency Coordinator will evaluate the agency's procedures and staff.

9.04 Post Qualification Procedures

- a. Due to possible changes of personnel within local agencies, and various changes in federal and state laws and requirements, a review of all qualified agencies must be made periodically to determine if their staff and procedures are still adequate to perform in conformance with state and federal requirements. At the time of review, the local agencies can also be made aware of any changes in policies or procedures made since the date of the previous review.
- b. Local agencies that have not utilized their qualification in an extended period will be reviewed prior to their starting any new projects.

- c. Local agencies are required to notify the Right of Way Local Agency Coordinator of any policy changes affecting the procedures under which they were qualified.
- d. In the event a local agency is unable or unwilling to correct discrepancies or perform in accordance with their approved policy and procedure, an appropriate notice shall be directed to the agency informing them that they may lose their status as a qualified agency. Subsequent to this notification, if a local agency is still unable or unwilling to conform its procedures, a notice shall be directed to the agency informing them that they are no longer qualified to acquire right of way for federally funded projects. Changes in personnel within a consultant organization that is employed for the purposes of providing any of the various right of way services shall be addressed with the Right of Way Group. A review of those personnel changes and approval of those individuals shall be made prior to their beginning work on any of the contract services.

9.05 State Performs Right of Way Work for Local Agency

The ADOT Right of Way Group may perform right of way services for a local agency provided the local agency has executed an agreement with the Department for the performance of such services. Services may include plans, titles, appraisal, acquisition and relocation.

9.06 Monitoring

Monitoring or review of local agency right of way work is the process whereby ADOT assures that the local agency right of way practices are in accordance with applicable federal regulation and provide the documentation for certification. It will be State policy to monitor all local agencies highway projects whenever federal funding is included in any phase of such projects.

9.07 Monitoring Process

- a. Monitoring procedures cover the following elements:
 - 1. Concept Design Report – Upon receipt of a Concept Design Report, the Local Government Roads Section will forward a copy of the Right of Way portion for use by the Right of Way Local Agency Coordinator. The Coordinator will contact the local agency, explain the monitoring program, and offer assistance in right of way planning and field review to identify and minimize potential problems. Following the initial contact, the local agency should notify the RW Local Agency Coordinator at each stage of right of way activity so a review can be made. The Coordinator shall maintain close communication with the local agency and shall conduct

monitoring reviews or coordinate such review by functional representatives.

2. Functional areas to be monitored include the following:

- (a) Right of Way Survey
- (b) Right of Way Delineation
- (c) Right of Way Plans
- (d) Appraisal
- (e) Acquisition
- (f) Relocation
- (g) Property Management

- b. Number of parcels to be monitored – The number of parcels monitored on a local agency project will be determined by the Right of Way Local Agency Coordinator. If any agency has a good record, and minimum monitoring reveals no substantial variance with applicable regulations, no further monitoring on the project is needed. If the agency has a poor record, or the amount of monitoring accomplished reveals substantial non-compliance or repeated error, further monitoring should be done, on all parcels.
- c. Degree of Monitoring – Monitoring should be sufficient to insure that the overall federal and state procedures are met. The specific details may be reviewed only to the extent they affect the product. This means that general procedures will be in compliance without necessarily being the same as those used by the State. The monitoring will be based on conformance to the procedures submitted by the agency in becoming qualified. ADOT Acquisition and Relocation Manuals may be provided for use if directed by Right of Way Local Agency Coordinator.
- d. Monitoring by function – The review shall be on a continuous basis to insure that each right of way function is performed properly. This will insure that the local agency or consultant will have sufficient time to take corrective action at the proper stage. The review shall include an examination of all major functions involved in the right of way acquisition. The primary emphasis of this monitoring will involve plans, appraisal, acquisition, and relocation assistance. When the certification is obtained based on Right of Entry or an Order for Immediate Possession, the monitoring shall continue until all rights have been acquired.
- e. Monitoring Documentation – A compliance check sheet, relating to the specific right of way function being monitored, will be completed for each parcel selected for review and retained in the project file. Information on any work required correction shall be communicated in writing to the local agency with follow up procedures to insure that the correction has been accomplished.
- f. Monitoring Information and Education:
 - 1. Information – The Right of Way Local Agency Coordinator will notify all local agencies of the specific requirements that apply to acquisition of rights of way on federally funded projects. The notification will be in

sufficient detail and form as to assist local agencies to properly interpret state and federal requirements. The local agencies will be informed that the State will provide necessary assistance to them in order to understand or implement the proper procedures.

2. Education – One of the goals of monitoring is to educate the local agencies. As the agency performs right of way functions in close liaison with the State, they will gain expertise and knowledge of the specific procedural requirements.

9.08 Certification of Compliance

- a. Following completion of right of way plans, acquisition, relocation and site clearance, the local agency will complete a Right of Way Certification and return it to the Right of Way Local Agency Coordinator, certifying that right of way has been acquired and relocation has been performed in accordance with applicable laws.
- b. The Right of Way Local Agency Coordinator to Endorse – The Coordinator will, by endorsement or memo addressed to the ADOT Project Manager, indicate approval or disapproval of the local agency certification. If the Coordinator recommends disapproval, he shall prepare a letter addressed to the appropriate local agency official stating the reasons for the disapproval.
- c. Approved Certification Forwarded – After the local agency certification is approved by the ADOT Project Manager, an appropriate certification will be prepared and submitted to FHWA through Highways Division channels.
- d. Deficient Certification Returned – In the event deficiencies are found resulting in denial of certification, the Right of Way Local Agency Coordinator will submit an appropriate letter to the local agency notifying them of such denial and enumerating the deficiencies. The Right of Way Local Agency Coordinator will then contact the local agency and offer to assist in correcting those deficiencies.

9.09 Distribution of Directives

The R/W Local Agency Coordinator will distribute, to appropriate local agency officials, copies of applicable laws, regulations and directives.

Chapter 10 Monitoring Procedures for Consultants

10.01 Purpose

The purpose of this chapter is to present monitoring procedures to be followed by the Arizona Department of Transportation when working with private Right of Way consulting firms.

10.02 Monitoring

Monitoring is the process whereby ADOT assures that private consultant right of way practices are in accordance with Federal regulations and ADOT policies and procedures. It will be Sate policy to monitor all private Right of Way consultant contracts.

10.03 Monitoring Procedures

Monitoring procedures cover the following elements:

- a. Pre-qualification Considerations
 1. ADOT will verify consultants past successful experience. This will allow the agency to develop a realistic appraisal of the consultants past work history for similar projects.
 2. ADOT will investigate current projects the consultant is involved with in order to make a realistic judgment as to the availability of skilled management and staff.
- b. Pre-project Indoctrination
 1. ADOT will hold a pre-project orientation meeting with the consultant to identify the scope of the project, the type of Right of Way functions to be performed and to explain goals and expectations as well as monitoring procedures.
 2. ADOT will provide the consultant with current ADOT policy and procedure information and will brief the consultant on ADOT philosophy concerning interpretation of the Uniform Acquisition and Relocation regulations.
 3. ADOT will acquaint the consultant with standardized ADOT documents and forms and will provide a sample packet for the consultants use.
- c. In-Service Coordination

The Unit is responsible for monitoring those functions for which the Right of Way Group has contracted: including but not limited to plans, acquisition and relocation activities. Monitoring functions will be performed on a continuous basis to insure that the work is properly performed. Monitoring functions include the following:

 1. Reviewing all acquisition packages submitted for payment.
 2. Reviewing all relocation claims submitted for payment.
 3. Reviewing all relocation parcel files for finalization.
- d. Monitoring Documentation – Information on any work that requires correction shall be communicated in writing to the consultant with follow up procedures to insure that the correction has been accomplished. Changes in key personnel

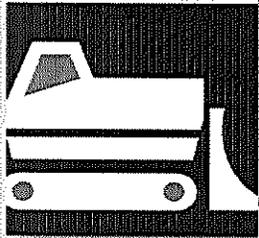
within a consultant organization that is employed for the purpose of providing any of the various right of way services shall be addressed with Right of Way Group and noted by unit personnel as to the affect on the contract.

e. Consultant Evaluation

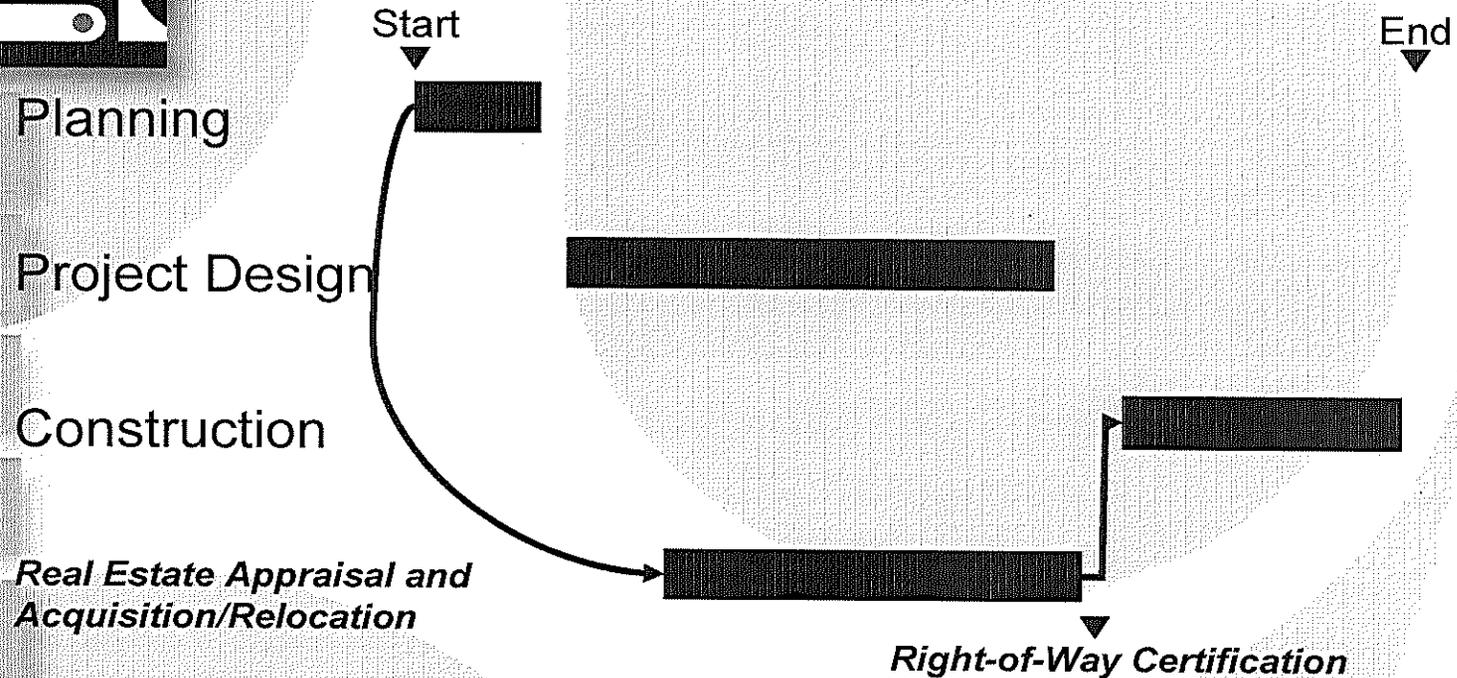
f. The consultant evaluation program is a vehicle to maintain the lines of communication between the Consultant Liaison Unit and the consultant. A positive approach to the consultant evaluation program assures that:

1. Project completion dates are attainable
2. Potential problems that may impact a project are resolved in a timely manner.

The consultant evaluation program is designed to be reciprocal. The consultant is evaluated at major milestones during the life of the contract and consultant has the opportunity to evaluate the Consultant Liaison Unit. Generally, evaluation will begin 30 days after the consultant receives the acquisition or relocation assignment. Additional evaluations will be performed at the midway point of the project and again when the contract is completed. All evaluations will be in writing and retained in the project file.



Project Development Timeline



Right-of-Way appraisal, acquisition and re-location activities primarily take place in the Project Design phase, with Right of Way Certification a prerequisite for initiating the Construction phase.

There are Five Basic Phases to a Project

1. Planning Phase:

Surveying and initial property descriptions.

General right-of-way cost estimates.

Analysis of impacts and solutions for Relocation issues, if any for landowners or tenants. (Socio-economic data will be used in environmental assessment process and for cost estimates).

2. Environmental Phase:

Conduct environmental studies

Obtain approval of the NEPA document (National Environmental Policy Act of 1969).

Public involvement

Obtain "Authorization to Proceed" from FHWA for Preliminary Engineering (PE)

3. Design Phase:

Survey and complete property descriptions and delineations.

Finalize right-of-way requirements.

Finalize right-of-way cost estimates.

Address whether project construction features will be considered in lieu of payment of appraised damages to remaining property.

Suggested DCR (section coordination meeting to value R/W requirements and their possible conflicts)

If context sensitive design is an objective on the project, ensure that it is communicated to those doing the valuation and acquisition on the project so that the benefits thereof can be communicated to the property owners.

Perform advance acquisition of hardship cases and protective purchases of properties that could potentially be developed and compromise the project location. (This could be done during the Planning Phase also if necessary).

4. Right-of-way Acquisition Phase:

LPA obtains an "Authorization to Proceed" (AZPR2X) from FHWA through ADOT.

Appraise, negotiate, and acquire all needed properties (if design is sufficiently complete).

Relocate all landowners and/or tenants.

Manage acquired properties to achieve the greatest net return to the project until construction begins.

5. Construction Phase and Project Management:

Coordinate completion of acquisition and/or control of any exceptions that were listed in the earlier Right-of-way Certification.

Address any construction related issues with landowners adjoining the project.

Ensure that any construction features that were agreed to in any right-of-way settlement or environmental commitment are accomplished.

Manage any excess land owned, including remnants acquired, that is not being used temporarily by the contractor.

Basic Requirements of the Acquisition:

1. Personal contact must be made with property owner.
2. Provide the owner with a written offer of what is believed to be "Just Compensation", derived from the **appraisal review** and the **Summary Statement**.
3. Must give owner time to consider offer (Federal Regulations state minimum 30 days).
4. Conduct activities in a non-coercive manner.
5. Provide at least a 90 days notice to vacate property simultaneously replacement housing package must be presented (90 days prior to moving).
6. Pay the agreed upon price.

Please ask your ADOT Right of Way Liaison if you need more information.

NOTES TO ADD TO NEW ACQUISITION/RELOCATION WORKSHOP

Certification Forms:

A separate right of way certification must be completed by LPAs for each LPA Project even if no right of way is required for the project. All certifications should be prepared using forms specified by ADOT.

ADMINISTRATIVE SETTLEMENTS

The Uniform Act requires that —The head of a federal agency shall make every reasonable effort to expeditiously acquire real property by negotiation. Negotiation implies an honest effort by the acquiring agency to resolve differences with property owners. Negotiations should recognize the inexact nature of the process by which just compensation is determined. Further, the law requires an attempt by agencies to expedite the acquisition of real property by agreements with owners and to avoid litigation and relieve congestion in the courts.

In addition to the mandates of the Uniform Act, there are significant cost savings, which can be realized through an increased use of administrative and legal settlements. Cost savings are in the areas of salaries, witness fees, travel, per diem, court costs, etc.

FHWA and ADOT encourage LPAs to carefully consider and maximize use of administrative settlements in appropriate situations.

An administrative settlement is a negotiated settlement of a right of way acquisition case in which the LPA and ADOT have administratively approved payment in excess of the FMV.

If the LPA anticipates requesting federal participation in the portion of the administrative settlement over the FMV, the administrative settlement must be approved by ADOT Right of Way Liaison prior to the LPA finalizing the settlement. In this scenario, when the LPA agrees to the administrative settlement it should notify the landowner or landowner's representative that the settlement is subject to ADOT Right of Way Liaison approval.

The LPA should then notify the Right of Way Liaison of the amount of the administrative settlement and the reasons for entering into the settlement.

If the settlement is within certain delegated limits and the Right of Way Liaison determines that the settlement is reasonable, the Right of Way Liaison can verbally approve the administrative settlement. A written justification and approval signature will follow.

If the settlement is outside of certain delegated limits, a written request to approve the administrative settlement will be required. The Right of Way Liaison can provide the LPA with the ADOT form to be used for such written request.

After the form is completed, it should be tendered to the Right of Way Liaison. If the portion of the administrative settlement is under 30% of the FMV, the Region Representative or Region ROW Manager may approve the settlement for Federal participation. If the participating portion of the settlement is over 30% of the original FMV, the Right of Way Liaison will forward the settlement to the ADOT Right of Way Project Manager.

If an administrative settlement is approved by the Right of Way Liaison or ADOT Right of Way Project Manager, the entire amount of the settlement is eligible for federal participation. If an administrative settlement is rejected, the LPA can request ADOT Right of Way Liaison to notify it of an acceptable administrative settlement. If the LPA then agrees to an administrative settlement higher than the ADOT Right of Way Liaison approved settlement amount, the LPA can agree to the higher settlement with the understanding that the amount of the settlement above ADOT Right of Way Liaison approved settlement will not be eligible for federal participation.

For additional details refer to 23 CFR 710 Subpart A; the FHWA Project Development Guide (Settlements); the FHWA Real Estate Acquisition Guide for Local Public Agencies; and ADOT ROW Manual.

Consistent use and application of the Uniform Act on all federal-aid transportation programs or projects and all programs and projects that improve or modify a portion of a federal or state highway regardless of the source of funding, is good business practice, minimizes the opportunity for inconsistent treatment of property owners and is efficient and effective in administering the program. As a policy matter for statewide consistency and effective program oversight and monitoring, ADOT shall require all LPA programs or projects to be administered under the Uniform Act. LPAs must follow the same FHWA approved acquisition/relocation procedures that ADOT follows.

Federal assistance may be involved in future transportation projects affecting the LPAs' roads, so following the Uniform Act requirements on any project that modifies or improves a transportation facility on any LPA road, regardless of the funding source, will ensure that such LPA road is eligible for future federal assistance.

ADOT SERVICES:

ADOT is committed to an ongoing program, which will provide effective assistance, consultation and guidance to LPAs.

The ADOT Right of Way Liaison can provide information and establish appropriate state staff contacts; provide training and educational opportunities for LPAs; and provide mutually acceptable technical advisory services, guidance and consultation as necessary to accomplish the acquisition program.

ADOT Right of Way Liaison will consult and advise the LPA concerning real property acquisition activities to ensure that right of way is acquired in accordance with provisions of state and federal laws and FHWA directives. ADOT Right of Way Liaison can provide information and establish appropriate state staff contacts; provide training and educational opportunities for LPAs; and provide mutually acceptable technical advisory services, guidance and consultation as necessary to accomplish the acquisition program.

ADOT Right of Way Liaison will consult, guide and advise the LPA concerning real property acquisition activities to ensure that right of way is acquired in accordance with provisions of state and federal laws and FHWA directives. This instructional manual has been prepared to aid Local Public Agencies (LPAs) in the development of right of way programs. We (ADOT ROW) want to develop a partnership with you (the LPA).

Our goal is to provide assistance which will allow your right of way acquisition to be performed in a manner that will not jeopardize federal funding in your projects.

Your Responsibility:

Your agency is responsible for acquiring the necessary right of way for the construction and maintenance of the proposed facility in accordance with all applicable federal and state laws and regulations.

You must consider not only right of way acquired in fee simple, but also permanent easements (slopes, drainage, etc.), temporary easements (construction, borrow, etc.), licenses and any other agreements required for the entering on or use of land or property rights for construction and maintenance activities.

ADOT is responsible for fully informing LPAs of their responsibilities for LPA Projects by ensuring that every LPA receives all current regulations and procedural instructions affecting right of way activity and, on request, will provide guidance and advice on right of way matters. ADOT provides this information in its Right of Way Manual. This manual; FHWA's Right of Way Project Development Guide; FHWA's Real Estate Acquisition Guide for Local Public Agencies; 23 CFR; 49 CFR Part 24, and ADOT's Local Agency Manual are available to each LPA.

When questions arise in the development stage of a LPA Project or if it is determined that acquisition of property rights will be required for a LPA Project, the ADOT ROW Liaison should be promptly notified. The ADOT ROW Liaison has overall responsibility for each LPA in the State. In addition, the ADOT ROW Liaison is responsible for acquisition/relocation oversight on LPA Projects and liaison with each LPA on LPA Projects where Federal Funds are used.

The Monitoring Process:

As part of the overall responsibility assigned to ADOT by FHWA, the ADOT ROW Liaison is required to monitor LPA right of way acquisition functions on all LPA Projects for compliance with applicable laws and regulations.

You may or may not choose to involve federal funds in your right of way efforts. But should federal funds be utilized in any portion of the project (not just right of way) all requirements of the Uniform Act apply. We are available to assist you with compliance, but remember, ultimately this is your project and compliance is your agency's responsibility.

The ADOT ROW Liaison will monitor right of way activities throughout the project. A general discussion of ADOT ROW requirements and procedures as well as a discussion of unique project complexities usually occurs at the project-scoping meeting. If an LPA intends to start right of way activities prior to the project scoping meeting, the LPA must first contact the ADOT ROW Liaison to discuss such activities prior to commencing the same. The LPA will advise ADOT ROW Liaison of the progress of right of way activities at the ADOT field inspection review, field office review, and progress status meetings.

ADOT ROW Liaison may also perform quality assurance/quality control monitoring on a post-audit, spot-check basis to ensure that all LPA right of way activities are performed in compliance with federal and state laws and regulations. Acquisition and relocation activities must be in conformance with the Uniform Act, FHWA/ADOT Stewardship Agreement, the FHWA Project Development Manual, Local Public Agency Guide, and the ADOT Right of Way Manual. All right of way functional areas are subject to review. Spot-check monitoring will normally be limited to no more than 25% of the total work performed. Additional reviews shall be made only when violations are discovered and then only to determine if the violations are prevalent or one-time occurrences.

If violations are discovered, the reviewer will notify the LPA of the violations and the LPA shall be responsible for timely correcting the violations. The selection of projects to monitor shall be at the discretion of the Region, based upon staff availability, familiarity with the LPA, the project and any retained consultants, as well as the complexity of the right of way issues. Acquisition and/or relocation will be monitored by the ADOT ROW Liaison using the checklists to guide the review. Both entry and exit conferences will be conducted to advise LPA staff of the scope and findings of the monitoring visit. Appraisal services will be monitored by the appraisal review process. A written report will usually be provided to the LPA, though not necessarily at the time of the exit conference.

Monitoring provides a challenge for you and us at ADOT. If all parties involved view monitoring from a positive perspective, our partnership will be enhanced and our mutual goals reached. We monitor your projects on our own behalf and on behalf of FHWA. Our primary objective in the monitoring effort is to help you not jeopardize the federal funding you have requested. We do not want monitoring to develop into an adversarial relationship, but we can only succeed with your cooperation.

The areas to be monitored include management, design, appraisal, acquisition, relocation assistance, title and closing, condemnation and property management. Obviously your project may not include all of these disciplines.

One of our early monitoring concerns involves determining that you have the necessary resources to adequately address the right of way issues of your project. We would like to assist you in reviewing your resources and provide ideas for accommodating any shortfalls. We are also available early in your project to help in your assessment of lead time and project scoping issues.

Should monitoring discover areas that require attention, we will point out the potential problems and offer alternatives for remedy. You may utilize our suggestions or develop your own resolutions, provided all of the partners agree. But please note that ultimately you and your agency are responsible for maintaining eligibility for your federal funding.

Your agency is responsible for acquiring the necessary right of way for the construction and maintenance of the proposed facility in accordance with all applicable federal and state laws and regulations. You must consider not only right of way acquired in fee simple, but also permanent easements (slopes, drainage, etc.), temporary easements (construction, borrow, etc.), licenses and any other agreements required for the entering on or use of land or property rights for construction and maintenance activities.

You may or may not choose to involve federal funds in your right of way efforts. But should federal funds be utilized in any portion of the project (not just right of way) all requirements of the Uniform Act apply. We are available to assist you with compliance, but remember, ultimately this is your project and compliance is your agency's responsibility.

Your agency will be expected to certify compliance with all applicable laws and regulations.

Failure to comply will jeopardize your funding requests.

Federal Funding Guidelines:

23 CFR 710.203, 710.307 and 710.309 requires that costs for appraisal, negotiation and condemnation will not be eligible for federal funding without prior authorization from the FHWA to proceed with the activity. This authorization request is made through the ADOT Local Projects, Project Managers.

Costs incurred prior to the appraisal phase such as right of way estimates, title work, preliminary survey and plat and description preparation may be eligible for federal participation and reimbursement as a preliminary engineering activity or as an incidental right of way expense only if the costs are incurred after authorization.

Costs eligible for reimbursement include: real property acquisition, incidental costs of the acquisition, pro rata taxes and/or special assessments, permanent and temporary easements, damages to remainder of real property, court awards and cost of tenant-owned improvements, uneconomic remnants, and construction in exchange for donation. All documents relating to acquisition of the right of way must be available for inspection. Plans, contracts, deeds, appraisals, options, vouchers, correspondence and all other documents and papers must carry the federal-aid project number for identification.

Qualification of Right of Way Personnel:

All of us want to have qualified personnel supplying the services we need. We have provided what we believe to be minimum qualifications for persons performing right of way program functions (see below for individual categories). There are right of way functions for which no qualifications have been provided, including property management, land plat and description preparation, and condemnation and project management. If you find you require any of these services, or others, consult with your Local Liaison for assistance in determining the necessary qualifications.

Your Local Liaison maintains a list of persons who appear to be qualified for appraising, review appraising, negotiating and relocation assistance based upon information provided by those contractors asking to be placed on our lists.

You need to satisfy yourself that they are qualified to perform the work you require. We have provided you with a brief overview of some items we feel are important.

Qualifications of Appraisers and Review Appraisers:

The ADOT shall establish criteria for determining the minimum qualifications and competency of appraisers and review appraisers. Qualifications shall be consistent with the scope of work for the assignment.

ADOT shall review the experience, education, training, certification/licensing, designation(s) and other qualifications of appraisers, and review appraisers, and use only those determined by the Agency to be qualified. ADOT does keep and update a list of qualified appraisers.

APPRAISERS & REVIEW APPAISERS MUST:

Must be an Arizona Certified General appraiser.

Have successfully completed technical appraisal training and have experience in appraising the type of property to be appraised. When in doubt, a sample appraisal should be requested.

Have previous experience preparing appraisals for eminent domain right of way acquisition.

APPRAISALS MUST:

Appraisal Cover Sheet

All appraisal reports shall be submitted with a cover sheet, which will include the following items:

TYPE OF APPRAISAL

Parcel Number:

Owner:

Property Location:

Project Number:

Highway:

Section:

Date of Report:

Date of Value:

Appraiser: NAME

Certified General Real Estate Appraiser No. XXXX

State the Purpose of the Appraisal:

The following information shall be included in the "Purpose of the Appraisal" section of the report:

A statement of purpose, including the interest being valued (fee, partial, easement, access rights, etc.), subject to "Schedule B" of the right of way title report. The subject property to be appraised will be described in the appraisal contract (for fee appraisers) or by review of the furnished right of way plans and title reports.

The term "Market Value" is required to be utilized and referenced as defined by Arizona Revised Statute. Pursuant to Arizona Revised Statute 28-7091:

"...Market Value' means the most probable price estimated in terms of cash in United States dollars or comparable market financial arrangements that the property would bring if exposed for sale in the open market, with reasonable

time allowed in which to find a purchaser, buying with knowledge of all of the uses and purposes to which it was adapted and for which it was capable.”
A statement referencing the assumptions and limiting conditions contained in the “Certificate of Appraiser”

Project Related Plans/Maps/Reports:

All appraisals should include:
Title Report (at least a five (5) year chain)
Right of way and construction plans
Aerial maps and topographical maps
Scope of Project Report
Design Concept/Executive Summary Report
Environmental Assessment
Hydrology/Drainage Report
General Plans

Scope of the Appraisal:

See the ROW Project Management Website:

www.azdot.gov/highways/row/project.asp

At the bottom there are 3 sections, look for the one that has “Guide for Preparing an Appraisal Scope of Work” and “Minimum Scope Requirements” (see Tempe workshop).

Legal Description

Five Year Chain of Title

Owner Contact:

In accordance with Federal and State regulations, the subject property owner, or the owners designated representative, shall be offered the opportunity to accompany the appraiser during the field Inspection of the property. If the property owner declines to be present during the site inspection, it should be documented in the appraisal report.

Determination of the Larger Parcel

Site Inspection

Tenant / Lease Information

Area Data

Neighborhood Data

Site Data

Hazardous Materials

Improvement Data

Division of Realty and Personalty
Zoning
Restrictions and Easements
Taxes and Assessments
Signs
Highest and Best Use
Valuation
Cost Approach
Income Approach
Sales Comparison Approach
Confirmation of Comparable Data
Market Rent Estimate
Material Sites
Project Influence
Valuation – Part to be acquired
Underlying Fee and/or Areas of Jurisdictional Exception
Valuation – Remainder as Part of Whole
Valuation – Remainder Parcel After
Severance Damages/Special Benefits
Non-Compensable Damages
Cost to Cure
Uneconomic Remainders and Disposition of Excess Property
Final Reconciliation and Justification
Lessee / Lessor Interest
Auditing Breakdown
Certificate of Appraiser
Required Documentation

APPRAISAL REVIEW:

At a minimum, have the qualifications listed above for appraisers or be a full-time employee of the LPA or the DOT.

Possess the ability to logically analyze the appraiser's approach to value and recognize deficiencies in the appraisal report.

Be an Arizona Certified General Appraiser.

NOTE: Should you decide to utilize the services of a fee review appraiser your agency retains the responsibility to approve the amount believed to be just compensation.

Appraisal Review Standards:

The review appraiser will base all conclusions on standards as set forth in the following:

The Arizona Department of Transportation Appraisal Procedure Manual; referencing policies, procedures, standards and specifications.

U. S. Department of Transportation Uniform Relocation Assistance and Real Property Acquisition Regulations, Uniform Standards of Professional Appraisal Practice (USPAP.)

Approval of Appraisal Report

Project Consistency

Appraisal Discrepancies

Check and review the "Scope of Work" given to the appraiser

NEGOTIATIONS AGENT MUST:

Have documented experience in performing acquisitions which complies with the requirements of the Uniform Act or be a full-time employee of the LPA or the DOT.

Be familiar with the requirements of the Uniform Act.

Demonstrate the ability to understand appraisals and appraisal reviews.

Know how to research courthouse records and understand legal title.

Demonstrate the ability to interpret right-of-way plans.

Possess effective communication skills.

RELOCATION AGENTS MUST:

Have documented experience in performing relocation assistance which complies with the requirements of the Uniform Act.

Sufficient right of way knowledge in other disciplines to work within a team.

Changes, Clarifications and Additions for all the Local Public Agents concerning Right of Way:

Some terms and language definitions:

Local Public Agents/Agencies = **LPAs**

Arizona Department of Transportation = **ADOT**

Federal Highway Administration = **FHWA**

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and Thereafter Amended = **Uniform Act**

Right of Way = **ROW**

Code of Federal Regulations = **CFR**

Full Market Value = **FMV**

Note: The Uniform Act must be followed on all LPA Projects when Federal funds are used in any phase of a project. The Uniform Act must be followed for any LPA Project affecting, improving, or modifying any federal or State transportation facility.

LPA Staff Members

At least one permanent, fulltime LPA staff member **MUST** be deemed qualified to perform acquisition agent tasks for an LPA to become qualified to perform its own ROW acquisition work (qualification from ADOT ROW Liaison). An additional LPA staff member **MUST** be qualified to perform relocation agent work if the LPA project requires relocation. An LPA may have their own qualified staff member perform the acquisition tasks, and hire a fee agent or coordinate with ADOT ROW Liaison (if available) to perform relocation work. ADOT ROW Liaison **MUST** qualify the LPA's staff members.

ADOT ROW Liaison will monitor and evaluate the performance of qualified LPA staff in the right of way functions for which such staff members are qualified.

Such monitoring and evaluation will be conducted on a project basis consistent with the criteria set forth in the ADOT Manual. ADOT ROW Liaison may revoke any qualification allowing LPA staff to perform certain right of way functions for any violations of practices where correction is considered mandatory. Such revocation shall be at the discretion of ADOT ROW Liaison in conjunction with ADOT ROW staff.

Contract / Fee Agents and Consultants

The LPA, which enters into a contract with the fee agent or private consulting company for the performance of right of way work, retains ultimate responsibility for the actions of the fee agent or consulting company. ADOT has established broad criteria for use in evaluating the qualifications and selecting consultants for specific right of way functions. However, ADOT is not responsible for devising such criteria or for the performance of ADOT approved fee agent and consulting companies. The LPA is totally accountable for all action of the consultant, positive or negative. In the event the actions or performance of the consultant result in a loss of Federal funds for the project, it is the sole responsibility of the LPA to pay back these funds.

Fee agents and consulting companies **MUST** perform right of way functions to the same standards, practices, rules, and regulations as ADOT. The LPA will have the fee agents and/or consultants submit their name, contact information for the fee agent/consultant and a copy of the agreement between the LPA and fee agent/consultant to the ADOT ROW Liaison for review prior to them starting any work.

The ADOT ROW Liaison using the ADOT ROW Manual guidelines will monitor the work products of the fee agents and the consultant companies.

Administrative Settlements

The Uniform Act requires that the head of a governmental agency shall make every reasonable effort to expeditiously acquire real property by negotiation. Negotiation implies an honest effort by the acquiring agency to resolve differences with property owners.

Negotiations should recognize the inexact nature of the process by which just compensation is determined. Further, the law requires an attempt by agencies to expedite the acquisition of real property by agreements with owners and to avoid litigation and relieve congestion in the courts.

In addition to the mandates of the Uniform Act, there are significant cost savings, which can be realized through an increased use of administrative and legal settlements. Cost savings are in the areas of salaries, witness fees, travel, per diem, court costs, etc.

FHWA and ADOT encourage LPAs to carefully consider and maximize use of administrative settlements in appropriate situations.

An administrative settlement is a negotiated settlement of a right of way acquisition case in which the LPA and ADOT have administratively approved payment in excess of the FMV.

If the LPA anticipates requesting federal participation in the portion of the administrative settlement over the FMV, the administrative settlement must be approved by ADOT prior to the LPA finalizing the settlement. In this scenario, when the LPA agrees to the administrative settlement it should notify the landowner or landowner's representative that the settlement is subject to ADOT approval.

The LPA should then notify the ADOT ROW Liaison of the amount of the administrative settlement and the reasons for entering into the settlement. If the settlement is within certain delegated limits (each LPA may have a different amount based on experience) and the ADOT ROW Liaison determines that the settlement is reasonable, the ADOT ROW Liaison can verbally approve the administrative settlement. A written justification and approval signature will follow.

Administrative settlements shall describe the acquisition, state the offer of just compensation and the proposed negotiated settlement, introduce information which supports the settlement and request approval from the proper authority. The settlement may also include information on recent court awards for similar type property, the property owner's appraisal data, an estimate of trial cost or an opinion of legal counsel.

The settlement **MUST** be approved by an officer of your agency having responsibility for the right of way acquisition (not the negotiator). The person approving the settlement **MUST** be able to judge the risk/benefit issues of a potential court action.

If the settlement is outside of certain delegated limits, a written request to approve the administrative settlement will be required. The ADOT ROW Liaison can provide the LPA with the ADOT wording to be used for such written request. After the request is completed, it should be tendered to the ADOT ROW Liaison.

If the portion of the administrative settlement is under 10% of the FMV, the ADOT ROW Liaison may approve the settlement for Federal participation immediately.

If the participating portion of the settlement is over 10% of the original FMV, the ADOT ROW Liaison will consider it for approval based on documentation provided.

If an administrative settlement is approved by the ADOT ROW Liaison, the entire amount of the settlement is eligible for federal participation. If an administrative settlement is rejected, the LPA can request ADOT to notify it of an acceptable administrative settlement.

If the LPA then agrees to an administrative settlement higher than the ADOT approved settlement amount, the LPA can agree to the higher settlement with the understanding that the amount of the settlement above ADOT's approved settlement will not be eligible for federal participation.

ADOT Guidance and Assistance

ADOT is committed to an ongoing program, which will provide effective assistance and guidance to LPAs. ADOT ROW Liaison can provide information and establish appropriate state staff contacts; provide training and educational opportunities for LPAs; and provide mutually acceptable technical and advisory services as necessary to accomplish the acquisition program.

ADOT ROW Liaison will consult and advise the LPA concerning real property acquisition activities to ensure that right of way is acquired in accordance with provisions of state and federal laws and FHWA directives.

At the earliest possible date, the LPA should advise the ADOT ROW Liaison of the need for ADOT assistance.

Certification Forms / ROW Certification / Clearance

The LPA must certify that all Uniform Act requirements and other state and federal requirements have been met on all LPA Projects. This is the reason for the ROW Certification Form, page 2 under "CERTIFICATE" item # 5 "We certify all applicable state and Federal rules and regulations including the Uniform Act has been complied with. **Please initial here >>>>>>>>>**" **this MUST be initialed by a LPA official or ADOT ROW will not accept the ROW Certification and ROW Clearance will not be given.**

A separate right of way certification must be completed by LPAs for each LPA Project even if no right of way is required for the project. All certifications should be prepared using forms specified by ADOT. ADOT furnishes this form upon the LPA asking for it.

The certifications and supporting documentation will be reviewed, and if acceptable, an ADOT right of way clearance for the project will be issued by the ADOT ROW Liaison. If the certification and/or supporting documentation are not acceptable, the ADOT ROW Liaison will notify the LPA of required changes or missing documentation.

A Conditional Clearance May be Requested. In some situations, it may be necessary to clear construction projects early.

In order to clear the construction project and receive Federal Participation, all appraisals must be complete, full market value issued, ADOT ROW Liaison agrees that these conditions have been met, the ADOT ROW Liaison may issue conditional clearance memo request. A meeting with the LPA's project engineer/manager, the ADOT ROW Liaison and ADOT Project Manager to review the LPA's memo justifying the following items:

1. An explanation of the critical need to accelerate the advertisement of the project.
2. Where acquisition of a few parcels has not been obtained, full explanation and reasons therefore including identification of each such parcel owner, full market value and offer date shall be set forth in the request along with a realistic date when possession is anticipated as well as substantiation that such date is realistic.
3. A statement that the imposition of the restrictions, the no-work sections, will not delay completion or affect the cost of the project must be included. Remember, any additional costs to the project due to the increased bid prices or construction claims caused by the no-work sections will be non-participating by the Federal Funding.
4. When relocation is involved a statement that all occupants of the residences on such parcels have had replacement housing made available to them in accordance with 49 CFR 24.204. ADOT ROW Liaison must ensure that occupants of residences, businesses, farms, or non-profit organizations who have not yet moved from the right of way are protected against any unnecessary inconvenience or any action coercive in nature. A written description that essentially identifies the relocation status and the assistance that will be provided to the displaced persons(s) who have not yet moved from the right of way must be set forth in the request.

Dedications

The LPA may accept a parcel of land that a developer of a subdivision has dedicated, or proposes to dedicate, for street purposes in developing a subdivision. The LPA may also accept the land if the dedication is made pursuant to the local planning process or at the request of the property owner for land use concessions as long as the LPA has a City Ordinance that allows "dedications". A copy of that ordinance must accompany the ROW Certification.

Right of way acquired through normal zoning and subdivision procedures requiring the dedication of strips of land in the normal exercise of police power is not considered an acquisition or taking in the constitutional sense.

Thus payment of just compensation or compliance with the provisions of the Uniform Act is not required since police power is not used. This is not a donation.

Land obtained in this manner may be incorporated into a Federally-assisted project without jeopardizing participation in other project costs and may be eligible for obtaining the cost sharing/credit.

However, any dedication undertaken to circumvent Federal requirements is unacceptable and may result in Federal funds being withdrawn from the project.

Monitoring

The ADOT ROW Liaison will monitor right of way activities throughout the project. A general discussion of ADOT ROW requirements and procedures as well as a discussion of unique project complexities usually occurs at the project-scoping meeting.

ADOT ROW Liaison may also perform quality assurance/quality control monitoring on a post-audit, spot-check basis to ensure that all LPA right of way activities are performed in compliance with federal and state laws and regulations.

Acquisition and relocation activities must be in conformance with the Uniform Act, FHWA/ADOT Stewardship Agreement, the FHWA Project Development Manual, Local Public Agency Guide, and the ADOT Right of Way Manual. All right of way functional areas are subject to review.

Advance Acquisition

There are three circumstances under which LPAs can acquire or obtain right of way in advance of NEPA clearance, in all cases all acquisition is to follow the Uniform Act:

1. An agency may use its own funds to purchase right of way prior to NEPA clearance and may apply the purchase price (or if donated, the fair market value) toward its share of project costs, as long as it meets the requirements of 23 CFR 710.501. However, if any right of way is purchased in advance of NEPA clearance, the LPA cannot request or receive federal reimbursement toward any portions of the acquisition costs. If an LPA desires to pursue early acquisition of right of way in advance of NEPA clearance under 23 CFR 710.501 (see attached), the LPA must discuss such acquisition activities with the ADOT ROW Liaison.
2. An agency may purchase right of way prior to NEPA project clearance under the protective buying and hardship acquisition provisions set forth in 23 CFR 710.503, and be eligible for federal reimbursement for the costs associated with such acquisitions.

However, a categorical exclusion authorizing the early acquisition activity (which is a separate clearance from the project clearance) is required for protective buying and hardship acquisitions. In this scenario, acquisition of certain individual parcels will be cleared prior to the greater project receiving a formal clearance. Protective and Hardship acquisitions require prior approval from the ADOT ROW Liaison. Application for such approval must be submitted to the ADOT ROW Liaison.

3. LPAs can require private landowners to dedicate portions of their property as right of way for transportation projects as part of the

local agency zoning approval process. Formal NEPA clearance is not required for dedications exacted through a local agency zoning approval process.

However, conveyances of private property through dedications are not considered to be completed until a written agreement for such dedication is approved and executed by the local agency and the private landowner.

If the proposed time frame for completing such agreements is projected to exceed the right of way clearance date for the LPA Project or if a proposed dedication fails to be consummated for any reason; the LPA must acquire the needed right of way in compliance with state and federal requirements, including the Uniform Act.

Plans Requirements

Right of Way plans are required for all LPA Projects where acquisition of right of way is required. For additional detail refer to 23 CFR 710; the FHWA Project Development Guide, ADOT ROW Manual, Urban and Statewide Section, 4.02 Contacting the Owner, 2. (a) & (c). ADOT ROW Manual, Project Management Section, 2.07 Project Control and Scheduling, 2.07 (c).

ROW Plans for LPA Projects must be prepared in compliance with ADOT requirements when the LPA is requesting Federal participation in Right of Way acquisition and relocation or when the LPA is proposing a program or project that will improve or modify any portion of a federal or state highway, regardless of the source of funding.

Draft plans must be submitted to the ADOT ROW Liaison for approval.

APPRAISALS

All LPAs MUST use the appraisal services for all appraisals and review appraisals chosen from pool that has been qualified by ADOT ROW and approved by FHWA. FHWA is not allowing any non-approved appraisers to do Federally Funded work.

Any work performed ahead of the FHWA "Authorization to Proceed" for ROW Effective Date **will not be reimbursed**

For your convenience we have provided a list of the minimum records you will need to retain.

All Correspondence

Title Documents

Design Summary Information and Plats

Appraisals and review Appraisals

Negotiator's Notes

Administrative Settlement (if used) Signed Contracts

Conveyance and Closing Documents

Relocation Forms

Relocation Agent's Notes

Condemnation Documents (if used)

Right of Way Checklist

Proof of Payment to Landowner (s) and Tenant (s)

Notes/Documentation

The agent/negotiator **shall maintain** a written account of each and every contact relating to the parcel in such detail that if another agent/negotiator had to take the file over, they could just pick it up and continue as he had worked on the parcel file all along. The log/diary shall show the date of contact, person contacted and the matters discussed and any and all outcomes. It must also provide an accurate record of communications and the log/diary must show that the acquisition was done in an appropriate manner.

The log/diary must be signed/initialed at the bottom of each page by the agent and if more than one agent all must sign and designate who made the entry. (49 CFR 24.9 (a))

It is important that after each call, your negotiator completes a negotiator's contact report, sometimes called negotiator's notes summarizing the interview with the property owner. Each report should contain as a minimum:

Project number,

Parcel number,

Date of contact,

Type of contact (phone or in person),

Name, address and telephone number of person contacted,

Special instructions, if necessary, for locating that person,

Names of all other persons present,

Names, addresses and phone numbers of attorney or other representatives,

Main points discussed and commitments made by agent,

Principal objections to offer or taking,

Whether offer was accepted or rejected,

Requests made by owners / phone call documentation

Any other feature of the contact including special instructions for closing, relocation or property management,

Negotiator's signature and date.

The agent also needs to keep all written correspondence, including copies of all pertinent e-mails in the same chronological order as the log, in order to better understand the issues of the project.

In order to utilize these reports they need to remain in your parcel file.

Remember that these reports will eventually become available for inspection by the public and/or needed for a Federal/ADOT audit.

An audit by ADOPT and/or FHWA is not and "if", but **WHEN!**

ITEMS FOR ALL LPAs TO KNOW

These items only apply to projects that have Federal Funding in them.

- When an LPA loses a Right of Way employee, they **MUST** notify the ADOT ROW Liaison.
- When you hire a new right of way employee, they **MUST** be approved by the ADOT ROW Liaison to do Federally Funded projects.
- LPAs that do not have their right of way staff **MUST** use a qualified right of way consulting company (ADOT ROW approval necessary).
- If any LPA uses an administrative settlement, they **MUST** have it approved by the ADOT ROW Liaison.
- All "Memo of Understandings" and all "Rights of Entry" **MUST** first be approved by the ADOT ROW Liaison.
- All projects that have "Dedicated" property in the right of way **MUST** provide maps showing the dedication (hash marked or colored in), the City/County ordinance that allows the dedication, sent to the ADOT ROW Liaison.
- All LPAs **MUST** be able to locate their federally funded files by the ADOT Tracs. Number (EX. SS 609 01C) or they can have a cross guide to locating them.
- The LPA on every parcel in federally funded projects **MUST** have a comprehensive record (log/diary) of all conversations (telephone or person to person) and interactions with the property owners. It needs to include date, who the participants were, what was said or asked and the outcome.

Prepared by: Louis Malloque,
ADOT ROW Liaison to the Local public Agents

Process Elements:

This subsection emphasizes the key elements, which comprise the process as well as references to applicable Federal law and regulations. It is important to note, however, that all of the information that may comprise a specific acquisition process may not be included. Please refer to the **ADOT Right of Way Manual**.

Timing of Acquisition:

Right-of-way appraisal and acquisition can commence only after environmental and public hearing requirements have been satisfied, ADOT/FHWA approvals (Authority to Proceed) (ADOT form AZPR2X) received, and a design decision made by the LPA. (23 USC 128; Federal Aid Policy Guide, Parts 710-777; ADOT Action Plan)

However, if field investigations are required to be conducted on private property in order to obtain the data necessary for completion of the environmental document, the LPA may obtain temporary Rights-of-Entry (RE) to carry out the required field investigations (LPA **MUST** run the RE by ADOT).

Public Information Brochure:

The LPA is required to give the property owner an explanation of the acquisition procedure(s). The explanation can be accomplished through the presentation of a brochure that adequately describes the acquisition policy under Federal and State law (ADOT has examples).

The brochure must also define the property owner's rights, privileges, and obligations under these same laws. (49 CFR 24.102(b); 23 CFR 712.203(c)).

Right-of-Way Plans:

Plans need to indicate existing and new right-of-way lines, easements, and major structures within 50 feet of the new right-of-way line, slope limits, significant land features, and property lines. A parcel inventory, listing ownership and the area of the acquisition take, is also to be included. (23 CFR)

Title Report:

A Title Report shall be issued by a Title Insurance Company as the basis for a title policy. The title report must show the condition of title as of a specific date. A title report must include a chain of title of not less than five (5) years. It must state all adverse matters that affect the property, who the vested owner (s) are and their status, any separately held ownership and the legal description of the property.

Appraisal:

Each parcel to be acquired shall be appraised unless the valuation is **uncomplicated and the market value is less than \$2500.00**. (49 CFR 24.102 C (2)). The Appraiser **must** be an Arizona Certified General Appraiser and have a working knowledge of the Uniform Act, and all applicable State and Federal rules and regulations.

The property owner **must** be given the opportunity to accompany the appraiser on an inspection of the property. The notice of this opportunity is to be provided by the appraiser who would sign the "Appraiser's Certificate" and is to be documented in the appraisal. (49 CFR 24.102 (c)).

The LPA may contact the Right of Way Liaison of ADOT's Right of Way Group to obtain information on selecting Appraisers and Review Appraisers, as well as appraisal formats and specifications.

The appraisal process should include information on floodplain, floodways, erosion hazard, and/or development restrictions that may impact the property. All appraisals shall be dated, signed, and certified by the individual conducting the appraisal. The appraisal report **shall** indicate the date of valuation and the date of the report. The appraiser **shall** clearly define the rights being acquired.

Review Appraisal:

The Review Appraiser **is required** to sign a certificate that specifically sets the recommended or approved valuation, identifies the property reviewed and states the reviewer has no interest in the property reviewed. The Review Appraiser thoroughly reviews the appraisal (s) and makes a written statement of their findings. They also recommend or approve the value ("opinion of value"). (49 CFR 24.104)

Following the appraisal review, the Review Appraiser **must** place a copy of the appraisal report/review into the parcel maintained at the LPA and **must** be maintained for a minimum amount of time as specified in the Uniform Act. (23 CFR 710.201 (f) (1))

Compensation:

A supervisory Official of the LPA responsible for property acquisitions, or their "in house designated Review Appraiser, **shall** approve "Just Compensation" amount for the appraised property. This is a formal action which **must** be done in writing and placed in the parcel file. This establishment of "Just Compensation" **cannot** be passed on to an outside contractor/consultant. (49 CFR 24.102 (d))

Offer:

Once the property is identified as necessary for a public works project, Property is appraised, the appraisal is then reviewed and a determination of “just compensation” has been made. The Right of Way Agent then puts an offer letter together along with a summary statement of that offer (specific language content is in 49 CFR 24 102 (d) and (e)).

The initial offer may not be less than the reviewed appraisal amount; however, it can be more if the LPA determines that a greater amount reflects “Just Compensation” for that property. A summary statement **must** be incorporated in the offer letter or made part of the letter as an attachment. That summary **shall** include; a statement of the amount offered as “Just Compensation. It will include a description and location of said property. It must identify all buildings, structures, and other improvements (which include removable building equipment and trade fixtures) which are included as part of the “Just Compensation”. The offer **must** be presented promptly. (49 CFR 24.102(d)).

The LPA **must** allow the property owner time to consider the offer (minimum thirty (30) days). (49 CFR 24.102 (f))

Counter Offer:

Counter offers must be reviewed by the LPA’s Real Estate manager and a recommendation be prepared for consideration/action by the LPA’s board/council, if applicable. The recommendation **must** include justification (s) of any proposed counter offer. The property owner **shall** be advised that any action taken by the LPA’s board/council regarding the counter offer is advisory only, and only the board/council can approve, accept, or amend the counter offer. (49 CFR 24.102 (f))

Administrative Settlements:

The purchase price for the property may exceed the amount offered as Just Compensation when reasonable efforts to negotiate an agreement have failed. **Only** a LPA official **must** approve such administrative settlement; the settlement **must** be reasonable, prudent and in the public interest. The LPA **must** justify the settlement with written documentation which includes but not limited to, the new amount, any additional information brought forth by the property owner, appraisals, recent court awards, estimated trial costs or valuation problems. A copy of the settlement and all documentation **must** be placed in the affecting parcel file. (49 CFR 24.102 (i))

Payment Prior to Possession:

Prior to the LPA requiring the property owner to vacate the premises, the LPA **must** pay the agreed purchase price. However, in the case of condemnation, the LPA **shall** deposit with the court an amount that is not less than the LPA’s approved appraisal market value of the property, or the court award of “Just Compensation”. The LPA may, in certain cases, get a “Right of Entry” for construction purposes prior to making the payment. (49 CFR 24.102. (j)), however, the “Right of entry **must** be approved by ADOT R/W.

Negotiator's Log/Diary or Agents Contact Report:

The agent/negotiator **shall maintain** a written account of each and every contact relating to the parcel in such detail that if another agent/negotiator had to take the file over, they could just pick it up and continue as he had worked on the parcel file all along. The log/diary shall show the date of contact, person contacted and the matters discussed and any and all outcomes. It must also provide an accurate record of communications and the log/diary must show that the acquisition was done in an appropriate manner. The log/diary must be signed/initialed at the bottom of each page by the agent and if more than one agent all must sign and designate who made the entry. (49 CFR 24.9 (a))

Relocation Assistance:

Relocation assistance is required if acquisition necessitates the removal of persons or personal property. When a LPA plans for relocation, everyone occupying the property is presumed to be eligible for relocation services and benefits. The LPA must pay to move personal property located within the newly acquired right of way (or improvements). Relocation advisory assistance must be offered to displaced individuals, families, businesses, farms, and non-profit organizations. (49 CFR 24. 201-209) and (Public Law (P.L.) 91-646, Title II)

Notices for Relocation:

The LPA shall give all lawful occupants a "Notice of Relocation Eligibility" promptly in writing, at the initiation of the acquisition. This notice informs the occupants of their right to relocation assistance. The LPA shall not require any lawful occupant to move unless they have received at least a ninety (90) day written notice of the earliest date they may be required to move. The LPA must have comparable replacement housing available at the 90 day notice. If comparable housing is not available at the time of the 90 day notice, the notice must clearly state that the occupant will not have to move any earlier than 90 days from which a comparable replacement is available. (49 CFR 24.203(c))

Rental of Acquired Property:

Rentals charged by the acquiring LPA shall not exceed the fair rental value for a short-term occupier. (49 CFR 24.102(m))

Inverse Action:

A property owner shall not be forced to institute a legal proceeding to prove the taking of his/her property. (49 CFR 24.102 (1))

Uneconomic Remnant:

The LPA shall offer to acquire uneconomic remnant(s) created by a partial property acquisition. (49 CFR 24.102 (k))

Buildings, Structures, Improvements:

The LPA must acquire (or offer to acquire) the same interest in an existing improvement as is acquired in the property if the improvement is to be removed or is adversely affected by the acquisition.

For the purpose of acquisition, the improvement shall be considered a part of the property and payment for the improvement shall be its contributory value as part of the whole property or its salvage value, whichever is greater. (49 CFR24.105 (a))

Tenant-Owned Improvements:

Tenant rights shall be recognized in the appraisal. This may require a separate offer to the tenant based on a review of the tenant's lease agreement. Refer to regulations found in 49 CFR24.105 (a). LPA projects will base compensation on a unified fee valuation. The property owner shall be responsible for determining any leasehold.

Incidental Costs of Title Transfer:

The LPA shall reimburse the property owner for all reasonable expenses incurred for: Recording fees, escrow fees, prepayment penalties, pro-rata portion of property taxes, and similar expenses in conveying the property to the acquiring LPA.
(49 CFR24.106)

Litigation Expense:

The LPA shall pay certain owner's costs in a condemnation proceeding if: The final judgment is that the LPA cannot acquire the real property by condemnation; or the proceeding is abandoned by the acquiring LPA. The LPA shall be required to pay similar costs if an inverse action is decided in favor of the plaintiff owner.
(49 CFR 24.107)

Civil Rights:

All acquisition activities in connection with a Federal-aid highway project must be accomplished in accordance with Title VI of the Civil Rights Act of 1964 and 23 U.S.C. 324 and (23 CFR 710.401 et seq.)

Right-of-Way Certification:

A Right-of-Way Certification is prepared upon completion of the acquisition of all of the parcels required for the project. The completed certification is transmitted to the ADOT R/W Liaison. The ADOT R/W Liaison then writes a Right of Way Clearance memo and sends it to the LPA who return places it in the general right of way project file. When a project does not have any new right of way needed, the Right of Way verification and Clearance memo may be generated at the ninety to ninety-five percent (90-95%) design stages.

(23 CFR 635.309 (c))

Negotiated Items Affecting Construction:

The Project Manager shall be provided a copy of all agreements that may require the inclusion of work into the construction plans and/or specifications.

Memo of Compensation to File:

PROJECT:

HIGHWAY:

SECTION:

I _____ have reviewed the appraisal and the review appraisal;
Based on them I hereby set "Just Compensation" to be:
\$ _____

Date: _____

Printed Name: _____

Title: _____

Signature: _____

FORM FOR ADMINISTRATIVE SETTLEMENTS:

Administrative Settlement

PROJECT NUMBER (your):

COUNTY:

CITY:

TRACT NUMBER & FEDERAL ID:

OWNER(S) NAME:

APPRAISED VALUE:

TOTAL SETTLEMENT AMOUNT:

% OF SETTLEMENT TO APPRAISED VALUE:

SETTLEMENT RECOMMENDED BY:

APPRAISER:

APPRAISAL \$ RECOMMENDATION:

REVIEWING APPRAISER:

REVIEWER \$ RECOMMENDATION:

AQUISITION AGENT:

JUSTIFICATION FOR SETTLEMENT:

NEGOTIATOR

APPROVED BY LPA OFFICIAL

Some Ways to Lose your Money

Acquisition:

Don't give the property owner an opportunity to accompany appraiser

Don't offer fair market value based on an appraisal

Don't give property owner written offer

Don't give property owner reasonable opportunity to consider offer

Don't offer to purchase uneconomic remnant from property owner

Don't reimburse property owner for incidental expenses (closing costs, etc.)

Don't offer to acquire buildings, structures, other improvements

Coerce property owner into signing

Allow the same person to appraise/negotiate over \$10,000

Don't negotiate in good faith with the property owner

Don't give displacees 90-day assurance

Don't offer advisory services

Don't explain relocation eligibility

Don't explain relocation entitlements

Don't offer comparable replacement housing

Don't reimburse displacees for all eligible moving expenses

Don't pay eligible RHPs

Don't provide inventories or monitor non-residential moves

Don't document "actual, reasonable" costs

Don't pay mortgage interest differential

Don't pay closing costs on replacement dwelling

Don't do DSS inspection of replacement dwelling

Don't allow tenant displacee to choose the down payment supplement option

Don't provide justification for last resort housing

Don't explain move options to non-residential displacees
(actual direct loss, in lieu of, substitute personal property, etc.)

Charge more than fair market rent on a lease-back

Fail to account for use of proceeds from sale and lease on other Title 23 projects

Dispose or lease ROW along the Interstate without FHWA approval

Fail to keep ROW free of unapproved uses (encroachments)

General Issues:

Fail to obtain approval from FHWA for **change in access control** along the Interstate

Fail to assure that **local agencies follow approved procedures**

Fail to evaluate the **environmental effects of disposal and leasing actions**

Fail to assure that an **airspace lease is in the public interest & meets safety**

Inadequate documentation (**Malloque/Stoleson rule**):

“If it isn’t documented, it didn’t happen!”

You fail to comply with the Uniform Relocation Act

You fail to comply with 49 CFR Part 24

You fail to comply with your approved (by FHWA) ADOT R/W Manual

Guide For Preparing An Appraisal Scope Of Work

October 2005

The Scope of Work is a written set of expectations that form an agreement or understanding between the appraiser and the agency as to the specific requirements of the appraisal, resulting in a report to be delivered to the agency by the appraiser. It includes identification of the intended use and intended user; definition of fair market value; statement of assumptions and limiting conditions; and certifications. It should specify performance requirements, or it should reference them from another source, such as the agency's approved Right-of-Way or Appraisal Manual. The Scope of Work must address the unique, unusual and variable appraisal performance requirements of the appraisal. Either the appraiser or the agency may recommend modifications to the initial Scope of Work, but both parties must approve changes.

SCOPE OF WORK: The appraiser must, at a minimum:

1. Provide an appraisal meeting the agency's definition of an appraisal. *The definition of appraisal should be in the State DOT's FHWA-approved Right-of-Way or Appraisal Manual. For Federal-aid projects the definition must be compatible with the definition found at 49 CFR 24.2(a)(3).*
2. Afford the property owner or the owner's designated representative the opportunity to accompany the appraiser on the inspection of the property. *How this is to be handled should be in the State DOT's FHWA-approved Right-of-Way or Appraisal Manual.*
3. Perform an inspection of the subject property. *This should be specified in the State DOT's FHWA-approved Right-of-Way or Appraisal Manual.* The inspection should be appropriate for the appraisal problem, and the Scope of Work should address:
 - o The extent of the inspection and description of the neighborhood and proposed project area,
 - o The extent of the subject property inspection, including interior and exterior areas,
 - o The level of detail of the description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, the remaining property),
4. In the appraisal report, include a sketch of the property and provide the location and dimensions of any improvements. *Also, it should include adequate photographs of the subject property and comparable sales and provide location maps of the property and comparable sales as called for in the State DOT's FHWA-approved Right-of-Way or Appraisal Manual.*
5. In the appraisal report, include items required by the acquiring agency, usually including the following list: *This should be in the State DOT's FHWA-approved Right-of-Way or Appraisal Manual.*
 - o The property right(s) to be acquired, e.g., fee simple, easement, etc.,
 - o The value being appraised (usually fair market value), and its definition
 - o Appraised as if free and clear of contamination (or as specified),
 - o The date of the appraisal report and the date of valuation,
 - o A realty/personality report is required per 49 CFR 24.103(a)(2)(i),
 - o The known and observed encumbrances, if any,
 - o Title information,
 - o Location,
 - o Zoning,
 - o Present use, and
 - o At least a 5-year sales history of the property.
6. In the appraisal report, identify the highest and best use. If highest and best use is in question or different from the existing use, provide an appropriate analysis identifying the market-based highest and best use.

7. Present and analyze relevant market information. *Specific requirements for market information should be in the State DOT's FHWA-approved Right-of-Way or Appraisal Manual and should include research, analysis, and verification of comparable sales. Inspection of the comparable sales should also be specified.*
8. In developing and reporting the appraisal, disregard any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project. *If necessary, the appraiser may cite the Jurisdictional Exception or Supplemental Standards Rules under USPAP to ensure compliance with USPAP while following this Uniform Act requirement.*
9. Report his or her analysis, opinions, and conclusions in the appraisal report.

Additional Requirements For A Scope Of Work

INTENDED USE: This appraisal is to estimate the fair market value of the property, as of the specified date of valuation, for the proposed acquisition of the property rights specified (i.e., fee simple, etc.) for a Federally assisted project.

INTENDED USER: The intended user of this appraisal report is primarily the acquiring agency, but its funding partners may review the appraisal as part of their program oversight activities.

DEFINITION OF FAIR MARKET VALUE: This is determined by State law, but includes the following:

1. Buyer and seller are typically motivated;
2. Both parties are well informed or well advised, each acting in what he or she considers his or her own best interest;
3. A reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in U. S. dollars or in terms of financial arrangements comparable thereto; and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

CERTIFICATION: *The required certification should be in the State DOT's FHWA-approved Right-of-Way or Appraisal Manual.*

ASSUMPTIONS AND LIMITING CONDITIONS: The appraiser shall state all relevant assumptions and limiting conditions. In addition, the acquiring agency may provide other assumptions and conditions that may be required for the particular appraisal assignment, such as:

- The data search requirements and parameters that may be required for the project.
- Identification of the technology requirements, including approaches to value, to be used to analyze the data.
- Need for machinery and equipment appraisals, soil studies, potential zoning changes, etc.
- Instructions to the appraiser to appraise the property "As Is" or subject to repairs or corrective action.
- As applicable include any information on property contamination to be provided and considered by the appraiser in making the appraisal.

Appraisal Review

49 CFR 24.104

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Section 301

It is the responsibility of the acquiring agency to review all appraisal and specialty reports of real property to be acquired in connection with Federal-aid programs or projects and to establish an amount which it believes to be just compensation for such acquisition before the initiation of negotiations.

The Federal regulation, **49 CFR 24.104** requires that:

- a. A qualified review appraiser (see 49 CFR 24.103(d)(1) and appendix A, 24.104) shall examine the presentation and analysis of market information in all appraisals to assure that they meet the definition of appraisal found in 49 CFR 24.2(a)(3), appraisal requirements found in 49 CFR 24.103 and other applicable requirements.
- b. If the review appraiser is unable to recommend (or approve) an appraisal as an adequate basis for the establishment of the offer of just compensation, and it is determined by the acquiring agency that it is not practical to obtain an additional appraisal, the review appraiser may, as part of the review, present and analyze market information in conformance with 49 CFR 24.103 to support a recommended (or approved) value.

The purpose is to ensure that a qualified review appraiser determines the estimate of fair market value (FMV) is reasonably supported by an acceptable appraisal. Waiver valuations are not appraisals and therefore are not subject to the review requirement. The review appraiser plays an important role in the acquisition process and is charged with a great deal of valuation and administrative responsibility.

Before acceptance of an appraisal, the review appraiser will determine that the appraiser's documentation, including valuation data, demonstrates the soundness of the appraiser's opinion of value. The level of explanation for the reviewer's recommended or approved value depends on the complexity of the appraisal problem.

SUMMARY

The review of all appraisals made in connection with Federal-aid projects or programs is required. This chapter deals with how appraisal should be reviewed to meet Federal and state requirements.

The review appraiser's certification and the recommended or approved value of the property should be set forth in a signed written statement which identifies the appraisal report(s) reviewed and contains whatever explanation is necessary to support the recommended value. In the case of a partial taking, damages or benefits, if any, to the remaining property shall also be identified in the review appraiser's statement.

An appraisal review is a technical review of an appraisal by an experienced, competent, qualified review appraiser. Appraisal review is a critical quality control element in the valuation/acquisition process. In some agencies, the review appraiser acts for the agency in estimating the just compensation to be offered for the acquisition. An appraisal review is not only an arithmetic or grammatical review of an appraisal report. It is a comprehensive technical examination of the appraisal, as reported by the appraiser.

8.1. REVIEW CONSIDERATIONS

The review appraiser has many responsibilities in the evaluation of an appraisal report. The first involves reviewer objectivity. An appraisal is an estimate of value based on certain valuation related information and conclusions. It is the reviewer's responsibility to determine if a report (or reports) contains factual information, proper documentation and appropriately supported conclusions. The reviewer will assure that the report conforms to applicable laws and regulations.

The review appraiser should field inspect the appraised property and the comparable sales included in the report. If a field inspection cannot be made, the review appraiser should document the files explaining why such an inspection was not made.

The reviewer should examine the appraisal report to determine the following:

- a. That it has been completed in accordance with the state Department of Transportation (DOT) appraisal specifications in the procedural manual or the contract scope of work in the case of contract or fee appraisers.
- b. That it follows accepted appraisal principles and techniques in the valuation of real property in accordance with state law as set out in chapter 7.
- c. That it contains or makes reference to the information necessary to explain, substantiate, and thereby document the conclusions and estimate of FMV.
- d. That it includes consideration of compensable items, damages, and benefits, if any, and does not include compensation for items that are noncompensable under state law.
- e. That it contains identification, including ownership, of the buildings, structures, and improvements on the land, the fixtures which were considered as part of the real property, and items identified as personal property.
- f. That it contains an estimate of FMV for the acquisition, and as appropriate in the case of a partial acquisition, an allocation of the estimate of FMV for the real property and for damages to the remaining property.

Prior to approving or recommending approval of an estimate of just compensation, the review appraiser should request and obtain from the appraiser any needed corrections or revisions to a deficient appraisal report. The appraisal(s) are to satisfy the acquiring agency's appraisal report specifications. Any corrections and/or revisions should be documented and retained in the parcel file. The review appraiser may make minor corrections, such as mathematical ones, and note and initial his/her action. Likewise, the review appraiser may make comments and provide additional supporting data as necessary, while initialing them.

The review appraiser should not substitute his/her judgment for that of the appraiser, but where the review appraiser finds analytical and/or factual deficiencies in the appraisal report, remedial action should occur. The review appraiser should first ask the appraiser to consider making the required corrections in the appraisal report. Any needed factual data or analytical changes that cannot be handled this way require that the review appraiser, in the review report, in effect become the appraiser and assume the burden of substantiating and documenting the valuation in accordance with recognized appraisal standards such as set out in chapter 7. The appraisal report itself should not be changed by the review appraiser.

Upon completion of the review, the review appraiser should place in the parcel file a signed and dated statement setting forth:

- a. The estimate of just compensation including, when applicable, an allocation of compensation for the real property acquired and for damages to the remaining real property, and an identification or listing of the buildings, structures and other improvements on the land as well as the fixtures which are considered to be a part of the

- real property to be acquired, if such allocation or listing differs from that in the appraisal(s).
- b. That as a part of the appraisal review, there was or was not a field inspection of the parcel to be acquired and the comparable sales. If a field inspection was not made, the reason(s) should be recited.
 - c. That the review appraiser has no direct or indirect present or contemplated future personal interest in the property or in any monetary benefit from its acquisition.
 - d. The estimate of just compensation has been reached independently, without collaboration or direction, and is based on appraisals and other factual data.
 - e. If appropriate, a value estimate of items compensable under state law but not eligible for Federal reimbursement.
 - f. Which appraisal is recommended as the basis for establishing the estimate of just compensation; which are accepted or not accepted.

8.2. REVIEW APPRAISER QUALIFICATIONS

A review appraiser is a thoroughly qualified appraiser who is completely familiar with the type of appraisal problem being reviewed and the techniques required to address that problem. The review appraiser will be completely familiar with the agency's appraisal and other relevant requirements. It is very difficult for an individual who does not meet both of these qualifications to provide an appropriately thorough appraisal review for an acquiring agency.

Since reviewers have the responsibility for not just approving appraisal reports prepared by other appraisers but also for obtaining corrections and/or revisions to those reports when necessary, it is important that reviewers be tactful and effective in their contacts with the appraiser(s). The review appraiser performs a management function by assuring that agency appraisal related requirements have been satisfied. To represent management needs in the appraisal process, the review appraiser is considered part of the management team in project or acquisition development.

8.3. APPRAISAL REVIEW TECHNIQUES

Appraisal review is a critical function that bridges pure, technical appraisal and agency policy and requirements. The review appraiser should be well schooled and experienced in appraisal technology. Just as important are the knowledge, background, and understanding of the agency's requirements. The review report, especially if the review appraiser is charged with estimating just compensation, must reflect both technical appraisal evaluation and agency requirements. The appraisal review function is important due to its appraisal management responsibilities. The review appraiser will assure that each appraisal is independently acceptable, and that there is consistency (in land values, for instance) throughout the project.

The reviewer must identify the appraisals as recommended, accepted, or not accepted. The review appraiser should reconcile two (or more) acceptable, but divergent, appraisals of the same property. The review appraiser may develop a figure based on, but not necessarily identical to, one of the approved appraisals. Or the review appraiser's estimate can be based on the best parts of two or more appraisals. The exact function or "powers" of a review appraiser in determining an approved figure are not defined in Federal regulations, or in appraisal custom. It is an area where the acquiring agency must establish operating policy and procedures.

As discussed above, the review appraiser may make minor corrections and comments in an appraisal report, but not change any data or analysis. The proper way to handle an unacceptable appraisal is first request the appraiser update the appraisal and if that cannot be done, the review appraiser should, if it is not possible to get another appraisal, take corrective action in the appraisal review report. When this is necessary, the review appraiser may draw from any sources

available, including other appraisals of the property. If necessary, the reviewer may independently develop market data and/or provide an independent analysis. For this independent work, the review appraiser will adhere to all the applicable appraisal standards that are required of the appraiser.

The following items are minimum Scope requirements for the appraiser by FHWA.

The appraiser must, at a minimum:

- _____ Provide an appraisal meeting the agencies definition of an appraisal as in the ADOT manual or for fed work in 49 CFR 24.2(a) (3)
- _____ The owner of the property (or representative) must be afforded the opportunity to accompany the appraiser on the inspection of the property. (See ADOT manual)
- _____ Describe the extent of inspection of the subject property, including:
inspection of the neighborhood and proposed project area; inspection of subject property, including interior and exterior areas; the level of detail of description of the physical characteristics of the property being appraised (and in the case of a partial acquisition, the remaining property), per Manual.
- _____ Include a sketch of the property and provide the location and dimensions of any improvements. Also include adequate photographs of the subject property and comparable sales and a location map showing the subject and sales, per Manual. items are required by ADOT's Manual: Property rights to be acquired, e.g., fee simple, easement, etc. Value being appraised (usually market value) and its definition. Appraised as if free and clear of contamination (or as specified). The date of the appraisal report and the date of valuation. A realty/personality report is required per **CFR 24.103(a)(2)(i)**. The known and observed encumbrances, if any Title information, Location, Zoning, Present use, and at least a **5-year sales history** of the property.
- _____ In the appraisal report, identify the **Highest and Best Use**. If Highest and Best Use is in question or different from the existing use, provide an appropriate analysis identifying the market-based Highest and Best Use.
- _____ Present and analyze relevant market information, this would include, but not be limited to: research and analysis of, inspection of and verification of comparable sales used. See ADOT Manual.
- _____ Address **Project Influence** and disregard any decrease or increase in the market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project.* This will be a Jurisdictional Exception in regard to USPAP, as it is requirement of the FHWA.
- _____ The appraiser will report his or her analysis, opinions and conclusions in the appraisal report.
- _____ Appraiser must state the **intended use** of the appraisal report. This is usually market value of the property, as of the specified date of valuation, for the proposed acquisition of the property rights specified (i.e., fee simple, easement, etc.) for a Federally assisted project.
- _____ Appraiser must state the **intended user** of the appraisal report. This is primarily the acquiring agency, but its funding partners may review the appraisal as part of their program oversight activities.
- _____ Cite the applicable definition of (fair) market value. For cases that would go to state court in Arizona, ARS #28-7091 applies for ADOT and ARS #12-1122 for

Local Public Agencies. While they are very similar, definitions for financial institutions such as: FIRREA, Freddie Mac, etc **are not** acceptable.

The appraiser shall include a certification; per the ADOT manual. In addition, appraisers may also include a USPAP certification.

_____ The appraiser shall state all *relevant* assumptions and limiting conditions. In addition, the acquiring agency may provide other assumptions and conditions that may be required for the particular appraisal assignment.

All appraisals require a review appraisal process – either by LPA staff, a contract review appraiser, or the Arizona Department of Transportation. The appraisal review is to assure that the appraisal meets the applicable appraisal requirements, and then if so, **recommend a value for acquisition**. The reviewer **does not** set “Just Compensation”.

A review appraiser is a thoroughly qualified appraiser who is completely familiar with the type of appraisal problem being reviewed and the techniques required to address that problem. The review appraiser will be completely familiar with the agency’s appraisal and other relevant requirements. It is very difficult for an individual who does not meet both of these qualifications to provide an appropriately thorough appraisal review for an acquiring agency.

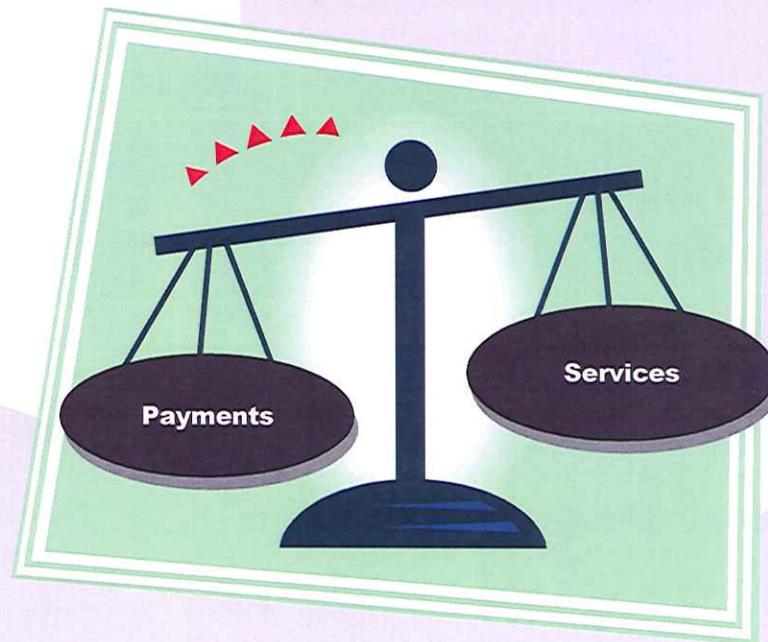
After the appraisal and the appraisal review, **the agency official internally approves an amount it believes to be “just compensation”**. This process should be documented in the file. The approval of a **“just compensation”** amount is an agency responsibility and **cannot be delegated** to a private sector contractor. The amount for Just Compensation cannot be less than the appraised value.

Relocation:



A Good Relocation Program Has A Logical Balance of Payments and Services

The Current Balance Between Payments and Services



Both Payments and Services are Required by Law and Regulation.

Authorization for Right of Way Activities:

You may not begin the acquisition of right of way before a written notice of FHWA Environmental Concurrence is issued. This approval is provided by the ADOT's Environmental Services. In some instances, preliminary right of way work may begin prior to the receipt of this approval. But it is possible that future changes may create revisions causing additional work and expense for your agency.

When you have received authorization to acquire right of way for your project the Valuation Process will be your next step. The cornerstone of any right of way acquisition and the fundamental responsibility of every acquiring agency is to offer fair and just compensation for all interests in the property rights to be acquired. The Valuation Process provides the documentation that fair and just compensation has been considered.

The Valuation Process may be described in five basic areas.

Whether to use an appraisal or implement the appraisal waiver process.

Appraisal Process

Appraisal Waiver Process

Review Process

Agency Establishment of Approved Offer (Just Compensation)

The first decision you and your agency will need to make during the Valuation Process is whether to obtain an appraisal or utilize the appraisal waiver process.

Your Local Liaison is available to assist you in making this determination, and of course there is no charge for this service.

You may also rely on your agency staff or hire a consultant to provide assistance in making this determination. Decisions should be reached in compliance with all state and federal criteria on this subject to avoid conflicts that may adversely affect federal eligibility for your project.

APPRAISAL PROCESS:

Before the initiation of negotiations, the property must be appraised.

There are two general exceptions: (1) if a donation is indicated and the owner(s) waive their right to an appraisal; or (2) if the magnitude and complexity of the acquisition indicate that an appraisal is not necessary.

When the property owner receives the letter indicating that an appraiser will be contacting them (or even earlier), that owner may indicate a willingness to donate the land without the requirement to have an appraisal made.

The second situation where an appraisal is not required may occur when the valuation problem is uncomplicated and the estimated compensation due the property owner is \$10,000 or less (minimal value purchase). Under these circumstances, instead of an appraisal a compensation estimate may be used to determine fair and just compensation. The format and level of documentation in an appraisal depends on the complexity of the appraisal problem. There is an appraisal report format that satisfies ADOT and FHWA standards; (MARKET ANALYSIS & PROPOSED OFFER WORKSHEET).
Sample of MARKET ANALYSIS & PROPOSED OFFER WORKSHEET
(See ROW Project Management Website)

Waiver of the Appraisal Process:

No before and after value. This report format is to be used for simple partial acquisitions when damages to the remainder are non-existent or are relatively minor, are easily measured or explained, or are measurable by cost-to-cure.

An example of a "simple partial" acquisition would be a strip acquisition from a large property, which does not approach close enough to any improvements to cause possible proximity damages. Any partial acquisition which necessitates reconfiguration of improvements or which damages the improvements could not use this format. Any partial acquisition which changes the highest and best use of remaining property also could not be appraised using this format.

There is \$10,000.00 limit to the total value of land and damages when using this format. Use of the format is limited only by the complexity of the acquisition, or of the property being appraised. This type of report does not express before and after values, but only indicates compensation due to the property owner and/or lessee. Value of the land and/or improvements acquired must be supported by applicable data. Any large cost-to-cure items must also be appropriately supported. An Arizona Certified appraiser cannot do this type of appraisal; it is against USPAP.
Regular Appraisals

A brief narrative discussion must be included covering the overall property, the acquisition, and the acquisition's effect on the remainder. The extent of documentation is to be commensurate with the significance of the appraisal, and values involved. The appraiser will provide before and after values for the property.

The estimate of just compensation arrived at in a value finding appraisal report reflects the appraiser's opinion of the difference between the before and after values.

It is assumed that the appraiser would not have a different estimate of just compensation if doing a before and after appraisal.

The standard three approaches (Market Sales, Income and Cost) should be considered, but often only the Sales Comparison Approach will be developed. The land valuation requires a minimum of two sales, documented, identified, and confirmed in the same manner as comparable sales for a detailed appraisal report.

Reasons for omitting any traditional approach to value should be clearly stated in the report. The Appraiser may be instructed to limit appraisal analysis to a specific valuation approach or approaches. This may be when inclusion of additional approaches to value would not significantly add to reliability and support of final value estimates, or when recommended by legal counsel or the Acquiring Agency.

Regardless of the formats used, the appraiser must offer the property owner, or their designated representative, a reasonable opportunity to be present during the inspection of the property.

All appraisals are prepared in conformity with the "Uniform Standards of Professional Appraisal Practice" (USPAP) as promulgated by the Appraisal Foundation, except as they may conflict with the state and federal requirements for eminent domain, in which case the jurisdictional exception provision of USPAP is applicable.

Appraiser Selection and Qualifications

Prior to the selection of an appraiser, each parcel to be acquired must be reviewed to determine the complexity of the acquisition and the desired appraisal format and a problem statement written. This type of determination must be provided by someone with sufficient expertise and knowledge to make these types of decisions. The appraiser you select should be a qualified member of your agency's staff or a qualified private consulting appraiser (fee appraiser). A qualified appraiser must be an Arizona Certified general Appraiser and must have demonstrated real estate experience, successful completion of real estate appraisal training, experience in eminent domain appraisals, and experience appraising the type of property being acquired.

If a fee appraiser is hired, the agreement must contain a schedule of the fees, itemized by parcel, which will be paid. The fee appraiser's proposal for services should be based on the LPA's determination of what type of value report is required. It is advisable that the agreement also contain a completion date and payment schedule for possible court testimony. You must give the appraiser the "Federal Scope of work "as found in the Uniform Act.

No appraiser or review appraiser may have any interest, direct or indirect, in the real property being appraised for your agency that would in any way conflict with the preparation or review of the appraisal. Compensation for

making an appraisal cannot be based on the amount of the valuation (say, as a percentage of or on a charted basis) and an appraiser cannot act as a negotiator for a property he/she has appraised.

An appraisal should be updated or a new appraisal obtained if: (1) additional value information is presented by the owner, (2) a material change in the property or proposed acquisition indicates the need to modify the appraisal, or (3) if a significant delay (depending on market conditions) has occurred since the date of the original appraisal.

The Review Appraisal Process

All appraisals require review by a qualified review appraiser. The person performing the appraisal review function must be thoroughly familiar with the Uniform Act and eminent domain requirements under the law. No appraisal review may be performed by the appraiser that made the appraisal of fair market value.

If you do not have a qualified review appraiser on staff you will need to secure the services of a reviewer/private contractor. The reviewer's responsibility is to ensure consistency of property values on a project, an adequate investigation of the local market to support the appraisal and that the appraisal conforms to applicable eminent domain appraisal standards. Your agency will need to designate a local official to subsequently approve the amount to be offered as just compensation.

The review appraiser will examine the appraisal to determine that it:
Has been completed in accordance with the approved appraisal specifications,

Follows accepted appraisal principles and techniques in valuation of real property in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) and state law for eminent domain acquisitions,

Contains information necessary to explain, and substantiate the conclusion and estimate of fair market value,

Includes consideration of compensable items, damages, if any, and does not include compensation for items not compensable under state law,

Contains an identification of the buildings, structures and improvements on the land as well as the fixtures which were considered as part of the real property (see discussion of Tenant-Owned Improvements and Leasehold Interests),

Contains an estimate of fair market value for the acquisition and, where appropriate in the case of a partial acquisition, an allocation of the estimate between the real property and damages to the remainder property.

Upon completion of the review and any corrections or modifications necessary by the appraiser to make the appraisal conform to these guidelines, the review appraiser will attach to the appraisal and place in the parcel file a signed and dated statement setting forth the following: Whether the appraisal is accepted and approved, accepted and not approved,

The approved amount recommended to be offered as just compensation, The understanding that the determination is to be used in connection with a federal-aid highway project,

The extent of the visual inspection of the parcel to be acquired and of the applicable comparable sales,

That no direct or indirect, present or contemplated future personal interest in the property exists nor that any benefit from the acquisition of the property appraised will occur,

That this determination has been reached independently based on appraisals and other factual data of record without collaboration or direction,

The determination shall be documented to show its basis.

Agency Establishment of Approved Offer

The acquiring agency must determine the amount of the approved offer of just compensation. This responsibility cannot be transferred to a consultant or contractor. Each file should be documented by a determination of the approved offer signed by an official of the acquiring agency.

49 CFR Part 24.102 (d) requires the acquiring agency to establish an opinion of fair and just compensation, offer the full amount believed to represent fair and just compensation, and that the approved amount cannot be lower than the lowest appraisal received.

Summary of Valuation Process

The following steps have been provided as a quick guide to help you through the valuation process.

Determine the appropriate type of valuation needed.

™ Consult with your Local Liaison

™ Rely on staff expertise

™ Obtain advice from other areas

Assign the work to the appropriate people.

TM Appraisers with expertise for the type of appraisal problem.

TM Acquisition agents with sufficient expertise to develop compensation estimates.

TM If appraiser completes the compensation estimate they could also serve as an acquisition agent.

Complete the necessary review

TM Qualified review appraiser for appraisal review.

TM Qualified staff for administrative review of compensation estimates.

Establish your agency's approved estimate of fair and just compensation.

TM Must be an official of the acquiring agency.

TM Amount must be, at a minimum, the lowest appraisal received.

TM Should be written and documented in parcel file.

The Acquisition Process has presented challenges for many acquiring agencies and property owners alike. The ADOT, Right of Way Acquisition Section maintains a policy and procedure manual for this process. The Acquisition Section Manual is available through your Local Liaison.

The following is a schedule estimate of right of way activities for an average project such as a widening job containing ten parcels or so. Some time frames for functions may overlap, and complex projects will require much more time. We have not provided estimates for Relocation Assistance, as these types of parcels can only be estimated on a case by case basis. Please remember, Relocation Assistance will require significant time, and your Local Liaison is available to help you estimate the time you will need.

R-1 Layout & Legal - Preparation of the right of way plans, plats, legal descriptions and title reports.
4 Months

R-2 Appraisal and Appraisal Review - Time to prepare and review appraisals.
4 Months

R-3 Negotiations – Notice of Proposed Public Improvement and Authorization to Acquire (per KSA 26-518) Negotiator making contact, securing signatures on contract, and closing transaction.
7 Months

R-4 Condemnation - Preparation of Condemnation notice, requesting selection of commissioners, making service, and making payments. Filing necessary notices, required publications and property owner mailing
6 Months

TOTAL - 21 Months

Notes to Add to Workshop:

There are 3 "Authorization to Proceed" notices (AzPR2X) needed from FHWA:

1. Preliminary engineering
2. Right of Way
3. Construction

The ADOT PM orders it; Even the CAs must have the ADOT PM order the Authorization

ADOT ROW Liaison needs to know when one of your Right of Way staff leaves and who is replacing them

If you do not have ROW personnel, you must have a ROW consultant that is federally funded knowledgeable

When you hire a new ROW person, they must be approved by the Liaison to do federal work

LPAs MUST have a relocation plan on all projects that need relocation (49 CFR 24.205 (a) (1-5))

LPAs MUST keep their Federally Funded projects by the ADOT Tracs number (EX. SS 456 01C) or a cross guide to find it promptly

All LPAs MUST have all administrative settlements approved by the ADOT ROW Liaison

ALL projects that have "dedicated" property in it must provide the maps showing it and the City/County Ordinance used to get the land, to the ADOT ROW Liaison

All Rights of Entry MUST be approved by the ADOT ROW Liaison

All MOUs must be approved by the ADOT Liaison

All LPAs will send copies of the project Environmental clearance and the FHWA "Authorization to Proceed" with ROW / CAs will have those in their project file

Authorization to Proceed with Preliminary Engineering / ROW items> order Title reports and RFP for Appraisers

LPA cannot meet with property owners (1 on 1) prior to having the ROW Authorization and having prepared offer letter and summary statement

You must use an appraiser who is familiar with the Federal Rules and Laws and knows Condemnation

Your monies expended on acquisition for a Federally Funded (construction) towards the non-federal match. As far as FHWA goes, you only need the Environmental Clearance, and then you may proceed to acquire the needed property. You MUST follow all Uniform Act rules. You will need to send your ADOT Local Government PM an e-mail telling him what you are planning on doing; please copy the ADOT ROW Liaison on that e-mail.

When you request the authorization for construction, you will need to inform the ADOT Local government PM that you want to use your expended monies on ROW towards the non-federal match.

You will need to certify that you did all acquisition under the Uniform Act and that all property was purchased at "Market Value". If you used administrative settlements in negotiations, only the "Market Value" will be applied towards the match.

RIGHT OF WAY CERTIFICATION

PROJECT: _____

HIGHWAY: _____

SECTION: _____

The County/City of _____ hereby certifies in connection with the right of way for
_____ that:

All required right of way for construction of this project has now been acquired, or is covered by Right of Entry or Order of Immediate Possession, except as noted in Certificate, as set forth in detail below:

1. STATUS OF NEW RIGHT OF WAY:

- a. Total number of parcels required _____
- b. Parcels acquired by purchase _____
 - B1. Amount of Federal dollars spent on acquisition \$ _____
 - B2. Amount of Local dollars spent on acquisition \$ _____
- d. Parcels acquired by dedication _____
- e. Parcels covered by Right of Entry _____
- f. Parcels covered by Order of Immediate Possession _____

2. RIGHT OF WAY ACQUIRED FOR OTHER PURPOSES:

Was any right of way not included above acquired since January 1, 1971?

Yes _____ No _____

(If answer is "Yes", attach a statement listing each such parcel indicating the date and how it was acquired)

3. SCHEDULE FOR REMOVAL OF IMPROVEMENTS AND OBSTRUCTION

Initial one (1) statement below:

- a. No improvements or obstructions are involved. _____
- b. Removal of improvements and obstructions is included in the State's construction contract. _____
- c. Improvements and obstructions will be removed by City/County forces or by separate contract prior to _____
(Date) _____

(If "c" is checked, attach detailed list with schedule of their removal)

4. PARCEL INVENTORY:

Attached hereto is an inventory listing each parcel required for this project. The listing shows parcel number, name of owner, interest acquired, or to be acquired, and status of acquisition (acquired, Right of Entry, Order of Immediate Possession, or other). N/A _____ See attached _____

5. COMPLIANCE WITH RELOCATION ASSISTANCE AND PAYMENTS PROVISIONS OF FEDERAL AND STATE LAW:

Initial one (1) of the following two (2) statements:

- a. No families or businesses are being displaced. _____
- b. Provisions of 49CFR PART 24 relating to assistance for displaced families and businesses are being complied with. _____

(If there are displacements, initial "b" and complete the schedule below)

- 1. Number of dwellings displaced: _____
 - a. Owner-occupied _____
 - b. Rental units _____
- 2. Number of other displacements: _____
 - a. Businesses displaced _____
 - b. Farm operations displaced _____
 - c. Non-profit organizations displaced _____

CERTIFICATE

This project may now be certified as conforming to one of the Statement Nos. (1, 2, 3, 4) below (please place a checkmark in one of the numbers)

Please initial number 5 verifying all laws were followed.

- 1. All necessary rights of way have been acquired including legal and physical possession. _____
- 2. Although all necessary rights of way have not been fully acquired, the right to occupy and to use all rights of way required for the proper execution of the project has been acquired. _____
- 3. The circumstances with respect to acquisition or right of occupancy And use of a few parcels warrant proceeding with the advertisement of bids on the basis it will be in the best public interest to do so in advance of completion of the acquisition of the rights of the said few parcels. _____
- 4. No new right of way required. All existing right of way was obtained prior to January 2, 1971. _____
- 5. We certify all applicable state and Federal rules and regulations including the Uniform Act has been complied with. **Please initial here >>>>>>>>>** _____

County/City: _____

Title: _____

By: _____
(Please print name)

Signature: _____

Date: _____

WORKSHOP TOPICS:

Appraisals:

Appraisal Scope of Work

Nominal Appraisal Worksheets

Reviewer setting “what is believed to be Just Compensation”

Reviewer personally inspecting subject and comparable properties

Make sure the property is correctly labeled Legal description

5 year chain of title

Correct and consistent use of rounding

Place Check-marks in all the boxes that apply (reviewer)

Acquisition:

Contact Log/Diary

LPA Official setting “Just Compensation” in a memo in file

Copy of all e-mails especially if mentioned in contact log

Be sure plans match the take area and the recorded plats

Environmental Clearance and “Authorization to Proceed” from FHWA

Rights of Entry (must be ADOT ROW Approved)

Record (write a paraphrase) of telecommunications in contact log

Summary Statement

Limit time for property-owner to consider offer

Coercive language and coercive actions

Lack of supporting documentation

Donations

Dedications

Relocation:

Relocation plan/get started at the DCR stage (should be sent to ADOT for approval)

Replacement housing/calculations

Housing determinations

Housing must be D S & S

Contact report

Site searches documentation

Document the hourly rate for the site searcher

Explain benefits thoroughly

Consultant contract should be "Task Oriented" and not by the hour

Property Management:

(49 CFR 23.710.401 & 403)

The purpose of this code is to ensure the prudent use of Federal Funds in acquisition, property management, and disposal of real property.

Definition: Property management is the administration of acquired lands and improvements, including:

Maintenance and protection, such as the repair of dangerous conditions and preventing illegal occupancy.

Rental and leasing of acquired property; if property is not needed immediately, it can be used to produce income. Income must be applied to Title 23 Eligible Projects.

Disposal of property no longer needed for the project, such as excess parcels, remnants, old right-of-way and structures for salvage. Revenue must be applied to Title 23 Eligible Projects.

This section introduces participants to property management activities the LPA may conduct after acquiring Real Property.

A Property Management Plan **must** be prepared that outlines provisions for Maintenance, Protection, and Illegal Occupancy. The Plan also needs to address the Disposal of unneeded property, Old Right of Way, and Structures to be salvaged, if appropriate. The LPA **must** assure that all real property within the boundaries of a Federally Funded facility is devoted exclusively to the purpose of that facility and is preserved free of all other public or private uses; unless such uses are permitted by Federal regulation or the FHWA.

LPAs **shall** charge current market value or rent for the use or disposal of real property interests, including access control. Any monies derived from the sale, rent or lease of excess real property or of any real property acquired with Federal Funds, the monies **must** be put into the project or another Title 23 project.

Project Property Management begins before and continues throughout the property acquisition process and continues after the project is constructed.

Activities include:

- Record keeping and inventory of the lands, buildings, fixtures, and other assets that are conveyed with the real property in the purchase agreement.
- Real property maintenance, including landscaping, clearing, demolition, security, pest control, etc.
- Post-acquisition property management continues after the LPA has purchased and taken title to the property. Activities include:
 - Leasing or sale of surplus real property for short or long-term usage.

Sale or lease of excess land.

- Occupant retention or carryovers of a tenant.

- Real property maintenance, including landscaping, clearing, demolition, security, pest control, etc.
- The sale of improvements is common when the improvement is not needed for the road project. The improvements can be “sold back” to their original owner or sold to a third party. The improvements are typically either moved or salvaged for materials.
- Post-construction property management includes such activities as:

Controlling and removing encroachments on the right-of-way.
Approval of lease/ sale of highway airspace (joint use agreements)
Access Management.

The ROW sections of the ADOT/LPA manuals **do** have procedures for determining when a real property interest is no longer needed.

The LPA should be reminded to coordinate with the State Department of Transportation’s Right of Way Liaison, as the State Department of Transportation’s approval may be required for joint use and access management agreements.

ACQUISITION SECTION
DECENT, SAFE AND SANITARY INSPECTION REPORT

Name of Displacee _____

Replacement Dwelling Address _____

Purchase Price \$ _____ Monthly Rental Rate \$ _____

<u>Type Housing</u>	<u>Description of Dwelling</u>	<u>General Conditions</u>	Yes	No
Single Family Residence ()	Type Construction _____	1. Building structurally sound	()	()
Apartment ()	Total No. of Rooms _____	2. Meets egress requirements	()	()
Duplex ()	Total No. of Bedrooms _____	3. Adequate habitable area	()	()
Mobile Home ()	Total No. of Bathrooms _____	4. Adequate electrical system	()	()
Sleeping Room ()	(with tub or shower) _____	5. Heating/cooling system	()	()
Other _____				

		<u>Kitchen/Bathroom/Laundry Facilities</u>			
Yes	No	Yes	No	Yes	No
Adequate water supply	() ()	Sinks connected to		Properly ventilated	() ()
Adequate sewage	() ()	hot/cold water	() ()	Bathroom affords privacy	() ()
Sinks in good working order	() ()	Utility service connections	() ()	Flush water closet	() ()
		Space for installing appliances	() ()	Visible Plumbing	() ()

IF THIS DWELLING DOES NOT PASS INSPECTION, COMPLETE THE FOLLOWING:

This dwelling was inspected and found NOT to be in compliance with the standards of DECENT, SAFE, AND SANITARY HOUSING according to the rules and regulations of the ARIZONA DEPARTMENT OF TRANSPORTATION. The following deficiencies have been noted: _____

NOTE: Relocation funds will not be released until such time as the above deficiencies have been corrected and a subsequent inspection made by the Acquisition Section.

INSPECTED BY: _____ DATE: _____
 _____, Right of Way Agent

THIS DWELLING WAS INSPECTED _____ (REINSPECTED _____) AND FOUND TO BE IN COMPLIANCE WITH THE STANDARDS OF DECENT, SAFE AND SANITARY HOUSING ACCORDING TO THE RULES AND REGULATIONS OF THE ARIZONA DEPARTMENT OF TRANSPORTATION.

INSPECTED BY: _____ DATE: _____
 _____, Right of Way Agent

DISPLACEE DISCLAIMER STATEMENT

I/We, the undersigned Displacee(s), understand the criteria for decent, safe and sanitary conditions of replacement housing and certify to the best of my/our knowledge the above property complies therewith. I/We further certify the rental rate/purchase price as stated in the actual amount I/we am/are paying for replacement housing.

I/We further understand that the statements, findings, decisions, conclusions appearing in the foregoing are made solely for the purpose of determining my/our eligibility for payments for replacement housing and are not intended to be, nor do such constitute, warranties or guarantees by the State of Arizona, the Arizona Department of Transportation and the officers, agents and employees thereof, that the above dwelling is decent, safe and sanitary.

Signed: _____ Date: _____ Signed: _____ Date: _____

Project: _____ Highway: _____ Section: _____ Parcel: _____
 dss: _____

Prepared by: Louis Malloque,
 ADOT ROW Liaison to the Local public Agents

SAMPLE

**Waiver of Compensation
for -----
Project**

In 2004, you donated a public ----- for the citizen-initiated -----Project, being made possible through a federal transportation enhancement grant.

According to federal regulations you can be compensated for such easement or receive an appraisal of the donated land as provided for in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

Please sign below with a Notary Public acknowledging that you are waiving compensation for the previously donated ----- and/or the right to an appraisal of the donated land. Thank you.

Landowner:

Printed name: _____

Signature: _____

Parcel # (s) _____

STATE OF ARIZONA)
) ss.
County of)

The foregoing instrument was acknowledged before me this ____ day of _____, 2007, by _____, the _____ of _____, personally known to me or proven to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed it.

[Seal]

Notary Public

SAMPLE

Memo to File:

I _____ have reviewed the appraisal and the review of the appraisal and hereby set "Just Compensation" to be:

\$ _____

Date: _____

Printed Name: _____

Title: _____

Signature: _____

MARKET ANALYSIS & PROPOSED OFFER WORKSHEET

Project: _____ Parcel: _____

Highway: _____ Owner: _____

Section: _____ Agent: _____

COMPARABLE MARKET DATA								
Assessor Parcel #	Sale Date	Sales Price Per Unit	GENERAL ADJUSTMENT FEATURES					ADJUSTED UNIT VALUE
			Size	Zoning	Topography	Location	Other	
RECOMMENDED LAND UNIT VALUE:								

NOTE: The above sale/listing data was obtained from sources such as Comps of Arizona, TRW/REDI, Multiple Listing Service, etc. and may not have been independently confirmed. This document shall be accompanied by copies of real estate comparables, maps and all supporting documentation. If using a % of fee, it must be spelled as to why and all pertinent information be attached.

ACQUISITION FROM SUBJECT PROPERTY: Area: _____
 Type of Interest: _____
 Highest and best use: unchanged changed (see comments)

COMMENTS: (re: access, shape, location, topography, intensity of use for partial interests, minor improvements/cost-to-cure, etc.)

PROPOSED OFFER: \$ _____ **CALCULATIONS:** $\frac{\$}{\text{Unit Value}} \times \text{Area} \times \text{\% of Fee} = \text{Total Land}$
 Add for minor improvement value or Cost-to-Cure: \$ _____

CONCURRENCE: _____

_____ Date

Items that need to be in a parcel file for review

Checklist:

If new Right of Way is needed:

First Items Needed

- _____ Proof of Environmental Clearance (DATE ONLY)
- _____ Copy of Authorization to Proceed (Form PR2X from FHWA) (DATE ONLY)
- _____ Certification of Right of Way form completed and signed (original) (name of person authorized to sign)
- _____ Copy of appraisal and re-appraisal if applicable
- _____ Copy of appraisal review, comments and conclusion of value
- _____ Copy of the "JUST COMPENSATION" memo and the amount (signed by authorized person)
- _____ Copy of offer letters (signed)
- _____ Copy of summary statements
- _____ Copy of 100% design plans with new R/W highlighted
- _____ Copy of agents' contact log/diary (signed by agent/s)
- _____ Copy of all correspondence from property owners
- _____ Copy of Waiver of Compensation if used and justification for them
- _____ Copy of any administrative settlements and justification in a written memo to the acquisition file
- _____ Copy of all conveying instruments/easements of any kind
- _____ Copy of any condemnation proceedings and all correspondence to property owner in conjunction with condemnation, if needed

If relocation is involved:

- _____ Copy of all letters to property owner and any correspondence
- _____ Copy of the "Eligibility Determination" worksheet
- _____ Copy of the moving estimate and /or self move paperwork
- _____ Copy of all final paperwork concerning move
- _____ Property Vacate date

If there was no New Right of Way:

- _____ Proof of Environmental Clearance (DATE ONLY)
- _____ Certification of Right of Way form completed and signed (original)
- _____ Copy of 95% design plans or newer
- _____ Date of any Right of Way previously acquired and by what means (i.e. donations, dedications or by purchase)
- _____ Copy of Right of Way Clearance Letter/memo

D. THE IMPROVEMENTS

THE IMPROVEMENTS ACQUIRED AS A PART OF THE PURCHASE ARE DESCRIBED AS FOLLOWS:

COMMENTS AND/OR EXCLUSIONS:

PERSONAL PROPERTY NOT ACQUIRED (INCLUDES ITEMS NOT PERMANENTLY ATTACHED):

ANY SPECIAL CONDITIONS:

GRANTOR

_____ Date _____

_____ Date _____

ADOT ROW Workshop Quiz

- 1. Are Temporary Construction Easements considered new right of way? Why/why not?**
- 2. How many days must you give the property owner to consider the offer (minimum)?**
- 3. When can you begin right of way acquisition?**
- 4. "If you do not accept our offer in 20 days, we will file condemnation proceedings" is this, an example of coercion?**
- 5. If you have a small portion of land and it is simple and non-complex, what kind of appraisal may you use? What dollar (\$) amount?**
- 6. While you wait for your environmental clearance what, if any, right of way function (s) may you start?**
- 7. What should you give the Appraiser when you hire them? Can you think of several items? Review Appraiser**
- 8. An appraisal is an _____? _____ of the market value of the property and not the market value?**
- 9. How many days notice must you give a property owner before you make him move? What must you have at the same time as the notice?**
- 10. Must an appraiser ask if the property owner wants to accompany him on the appraisal?**

11. What kind of an appraiser must you use? Review appraiser?

12. Who sets what they believe to be "Just Compensation"?

13. What are the six (6) MAIN requirements in acquisition?

14. What two (2) things MUST you have prior to the start of acquisition?

15. Can you add the relocation amount into the acquisition settlement amount? Condemnation?

16. Name the three (3) kinds of relocation notices you must give the property owner?

17. What are two (2) types of advance acquisition?

18. Must you use a contact log/diary on all acquisition?

19. Does the contact log/diary need to be concise? If not then what must it be?

20. Is personal contact necessary on making an offer to acquire? If not what must you do?

21. Do you need to have a relocation plan?

22. What should a relocation plan have?

23. What two (2) things must you provide in relocating property owners?

24. What are the four (4) key steps in the relocation program?

25. What must an offer letter have with it?

26. How many years must the appraisal go back with ownership? Title reports?

27. What must a comparable house be that the relocated person moves into?

28. What are the five (5) phases to a project?

29. At what point does a project become federalized?

30. How long must you keep Federally Funded files?

Who should you call/ask when you have a question?

Answers to the ADOT ROW Quiz

- 1. Yes, The property owner temporarily gives up the right to use the property the TCE encumbers.**
- 2. 30 Days are the minimum amount of time for a property owner to consider the offer.**
- 3. Once the environmental clearance is in and you have “Authorization to Proceed” from FHWA.**
- 4. Yes, that is very coercive.**
- 5. Short form/appraisal waiver (ADOT has a “Market analysis and worksheet”). Up to \$2500**
- 6. You may order Title Reports and put out a RFP for appraisers, but you cannot tell them any particulars and they cannot contact the property owners.**
- 7. “Scope of Work”; Title report, description of the property needed, plans/maps**
- 8. Estimate**
- 9. 90 days and have a comparable house must be available for him to move into.**
- 10. Yes, law says they have to ask or attempt to get the owner to attend the appraisal.**
- 11. Arizona Certified General Appraiser; Arizona Certified General Appraiser**

12. The court is the only who can set Just Compensation, however the LPA official sets what they believe to be Just Compensation.

13.

- A. Personal contact must be made with property owner.**
- B. Provide the owner with a written offer of what is believed to be "Just Compensation", derived from the appraisal review and the Summary Statement.**
- C. Must give owner time to consider offer (Federal Regulations state minimum 30 days).**
- D. Conduct activities in a non-coercive manner.**
- E. Provide at least a 90 days notice to vacate property simultaneously replacement housing package must be presented (comparable housing available) (90 days prior to moving).**
- F. Pay the agreed upon price.**

14. Environmental Clearance and the "Authorization to Proceed" from FHWA.

15. No, relocation is a totally separate part of the project and cannot be mixed with acquisition. Cannot add relocation amount to condemnation.

16.

- A. General information**
- B. Relocation Eligibility**
- C. 90 day vacate**

17. Hardship and property preservation

18. Yes, as detailed as it takes so a different agent can look at it and know where to pick-up from.

19. Same as above

20. Yes, if you cannot get them or they are out of state, you can send a certified letter return receipt.

21. Yes, the law is very clear on that.

22. Logical balance of payments and services.

23. Services and benefits.

24.

A. Planning the relocation

B. Issuing notices

C. Providing advisory services

D. Making benefit payments

25. Summary Statement can be attached or incorporated into the letter.

26. 5 years

27. Decent, safe and sanitary (DS&S)

28.

A. Planning

B. Environmental

C. Design

D. ROW acquisition

E. Construction

29. When a dollar (\$1.00) or more of Federal money is in any portion of the project.

30. 5 years from when FHWA closes the project.

The ADOT Local Government Liaison

Questions for the LPA ROW Agent:

When is a project federalized?

What two items are necessary before you can start ROW?

If you have "Authorization to Proceed" for Preliminary Engineering, what two ROW items can you do?

When must you follow the Uniform Act?

What items MUST be in the offer letter?

What are the some important items in an appraisal request?

When does an appraisal have to be reviewed by a review appraiser?

What is the difference between a donation and a dedication?

Are Temporary Construction Easements considered new right of way? Why/why not?

How many days must you give the property owner to consider the offer (minimum)?

When can you begin right of way acquisition?

"If you do not accept our offer in 20 days, we will have to file condemnation proceedings" is this, an example of coercion?

If you have a small portion of land and it is simple and non-complex, what kind of appraisal may you use? What dollar (\$) amount?

What should you give the Appraiser when you hire them? Can you think of several items? Review Appraiser

An appraisal is an _____?_____ of the market value of the property and not the market value?

How many days notice must you give a property owner before you make him move? What must you have at the same time as the notice?

Must an appraiser ask if the property owner wants to accompany him on the appraisal?

What kind of an appraiser must you use? Review appraiser?

Who sets what they believe to be "Just Compensation"?

Can a LPA set Just Compensation lower than the approved appraisal amount? Higher?

What are the six (6) MAIN requirements in acquisition?

What two (2) things MUST you have prior to the start of acquisition?

Can you add the relocation amount into the acquisition settlement amount? Condemnation?

Name the three (3) kinds of relocation notices you must give the property owner?

What are two (2) types of advance acquisition?

Must you use a contact log/diary on all acquisition/relocation?

Does the contact log/diary need to be concise? If not then what must it be?

Is personal contact necessary on making an offer to acquire? If not what must you do?

Do you need to have a relocation plan?

What should a relocation plan have?

What two (2) things must you provide in relocating property owners?

What are the four (4) key steps in the relocation program?

What must an offer letter have with it?

How many years must the appraisal go back with ownership? Title reports?

What must a comparable house be that the relocated person moves into?

What are the five (5) phases to a project?

At what point does a project become federalized?

How long must you keep Federally Funded files?

ROW Questions:

1. How familiar with FHWA ROW requirements was the local government prior to initiating federal-aid projects and how does the local government go about obtaining this information. Was information on R/W acquisition processes readily available and/or provided by ADOT?
2. Does the local government have a copy of, or access to, ADOT's Right-of-Way Manual?
3. Do you handle R/W with your own staff or do you secure ROW consultants. What does the local government do (what standards/guidance do they use) to ensure their ROW consultants or in-house staff are sufficiently qualified to perform federal-aid work? Is the locality aware of the minimum qualification requirements for ROW consultants and how did they ensure the consultants meet those requirements?

4. Was the locality aware that appraisals must conform to ADOT Appraisal Guide, USPAP, and UASFLA? If so, how did that ensure that appraisals conform to ADOT Appraisal Guide, USPAP & UASFLA?
5. Does the local government restrict their consultants to those on ADOT's pre-qualified list of ROW consultants?
6. Does the local government have its own brochures and other written materials to advise and inform property owners about acquisition, relocation, and other programs, or do they use ADOT's brochures and materials?
7. Have there been instances where procedures in the ROW Manual could not be followed?
How were these issues resolved?
8. How was ADOT's ROW certification provided? Verbally or in writing?
9. What were the most difficult aspects of the ROW process to navigate and why? What could be done better?

Who should you always call/ask when you have a question?

Work performed on LPA Projects prior to authorization for each phase of work for the project is not eligible for federal participation.

Questions for the LPA ROW Agent: Liaison's Copy With Answers

When is a project federalized?

\$1.00 of federal money in any portion of the project.

If a project becomes Federalized, must you follow the "Uniform Act"?

Yes, the law is very specific in that respect; FHWA has concurred.

What two items are necessary before you can start the ROW process?

Environmental Clearance and the FHWA "Authorization to Proceed" with ROW.

If you have "Authorization to Proceed" for Preliminary Engineering, what two ROW functions can you do?

Order a Title Report and put out a RFP for appraisals.

When must you follow the Uniform Act?

Any time the project is federalized.

Must a LPA have at least one permanent, full time staff member qualified to perform acquisitions under the Uniform Act?

Yes, that is why you are here trying to get qualified.

What items MUST be in the offer letter?

The reviewed appraisal recommended amount and a summary of the offer.

What are the some important items in an appraisal request?

(We will accept any of these) Besides **A FEDERAL MINIMUM SCOPE OF WORK**; The property right(s) to be acquired, e.g., fee simple, easement, etc.; The value being appraised (usually fair market value), and its definition; Appraised as if free and clear of contamination (or as specified); The date of the appraisal report and the date of valuation; A Realty/Personalty report is required per 49 CFR 24.103(a)(2)(i); The known and observed encumbrances, if any; Title information; Location; Zoning; Present use, and at least a 5-year sales history of the property.

When does an appraisal have to be reviewed by a review appraiser?
Any time a project is federalized and the LPA is acquiring ROW,
whether or not there are federal funds in the ROW.

What is the difference between a donation and a dedication?
Dedication is by a LPA's ordinance/zoning regulations, usually for
developers; Donation is usually for private residential owners.

Are Temporary Construction Easements considered new right of
way? Why/why not?
Yes, because for a brief moment in time you own the right to use that
property.

How many days must you give the property owner to consider the
offer (minimum)?
30 days minimum by the Uniform Act.

When can you begin right of way acquisition?
Once you have the Environmental Clearance and the FHWA
"Authorization to Proceed" with ROW.

"If you do not accept our offer in 20 days, we will have to file
condemnation proceedings" is this, an example of coercion?
Yes, highly coercive and also illegal. This is a true case we found
while auditing.

If you have a small portion of land and it is simple and non-complex,
what kind of appraisal may you use? What dollar (\$) amount?
Waiver of valuation; \$2500.00 / up to \$10,000.00 with approval from
the ADOT ROW Liaison.

What should you give the Appraiser when you hire them? Can you
think of several items? Review Appraiser?
The most important item is the "Scope of Work"; set of plans
/drawings showing property needed, Title report, and your
instructions. Review appraiser gets the same plus the appraisal.

An appraisal is an estimate? of the market value of the property?

Estimate.

How many days notice must you give a property owner before you make him move? What must you have at the same time as the notice?

90 days notice and you MUST provide a comparable house for them to move into. They do not need to accept it.

Must an appraiser ask if the property owner wants to accompany him on the appraisal?

Yes, per the Uniform Act. He MUST document in the appraisal whether or not they accepted.

What kind of an appraiser must you use? Review appraiser?

In both cases, they MUST be Arizona Certified General Appraisers

Who sets what they believe to be "Just Compensation"?

1st the court is the only one who can set Just Compensation, however A LPA official only, can set what they believe to be Just Compensation (cannot be a consultant), it MUST be put in memo form and placed in the parcel file.

Can a LPA set Just Compensation lower than the approved appraisal amount? Higher?

A LPA CANNOT set Just Compensation lower than the approved appraisal amount. However, with documentation a LPA can set it higher.

What are the six (6) MAIN requirements in acquisition?

Personal owner contact; Written offer of what is believed to be Just Compensation with summary; MUST give owner at least 30 days to consider offer; Conduct activities in a NON-COERCIVE manner; Provide 90 days to move and have a comparable housing at the same time; Pay the agreed price.

Can you add the relocation amount into the acquisition settlement amount? Condemnation?



In both cases NO.

Name the three (3) kinds of relocation notices you must give the property owner?

General information; Relocation eligibility; 90 day vacate.

What are to two (2) types of advance acquisition?

Hardship and property preservation.

Must you use a contact log/diary on all acquisition/relocation?

Yes, even if it "NO NEW ROW" it MUST be as detailed and concise as it takes, so if another agent has to take over the file, he will know what to do after the last entry and will not have to start over.

Is personal contact necessary on making an offer to acquire? If not, what must you do?

Yes, but if too far from area, a certified return receipt letter is acceptable.

Can a LPA use an "Administrative Settlement" to negotiate a fair resolution to the acquisition?

Yes, but must be REASONABLE, PRUDENT AND IN THE PUBLIC INTEREST. It also must have the approval from ADOT ROW Liaison, no matter the amount.

Do you need to have a relocation plan?

Yes, no matter how many parcels, you need it, the Uniform Act is very clear on that. FHWA has concurred.

What should a relocation plan have?

A logical balance of services and payments.

What two (2) things must you provide in relocating property owners?

Services and benefits.

What are the four (4) key steps in the relocation program?

Planning the relocation; Issuing the notices; Providing advisory notices; Making benefit payments.

What must an offer letter have with it?

A summary statement which can be incorporated into the letter or attached to it.

How many years must the appraisal go back with ownership? Title reports?

At least five (5) years

What must a comparable house be that the relocated person moves into?

D. S. & S. Decent, Safe and Sanitary

What are the five (5) phases to a project?

Planning; Design; Environmental; Right of Way; Construction.

At what point does a project become federalized?

When a dollar (\$1.00) or more of federal funds is in any portion of the project.

How long must you keep Federally Funded files?

Five years (5) from when FHWA closes the project.

When can a LPA start condemnation proceedings?

If owner says no at the get-go then right away. But if they are in the 30 day minimum, then on the 20th day the LPA may send the parcel file to their attorney to begin the condemnation process, however they cannot contact owner or file the condemnation until the 31 day.

Can a LPA issue a "Right of Entry" / or a "Memo of Understanding" in order to close the parcel or get FHWA obligated?

NO, but a LPA can use a Right of Entry for geo-tech or to enter the property for appraisal work. But for all other cases they MUST have ADOT ROW approval.

What kinds of projects need to have "Right of Way" clearance?

All projects whether they are transportation or non-transportation related.

Can the same appraiser/appraisal firm also conduct the appraisal review?

No, they must be different and no connection to one another. Also, it is against the USPAP and you can get your license revoked.

Must a LPA pay the agreed upon price or can it be renegotiated.

NO, you MUST pay the agreed price.

Must the acquisition offer be in writing or can you relay it over the phone?

NO, it MUST always be in writing.

If you were auditing a project file and came across this: "If this project gets too expensive, we may have to look at tax assessments; wouldn't you like to donate your needed land" Do you see anything wrong here?

Yes, very coercive and illegal. This is a true case we found while auditing.

If after fair, non-coercive negotiations there is no resolve to the acquisition what two (2) remedies are there?

Administrative Settlements with full documentation or the Eminent Domain process.

Can a LPA accept a donation in exchange for construction?

Yes, this is a great way to save funds.

Must a LPA keep a record of complaints on Federally Funded projects?

Yes, they must be kept in the general project file.

Does a LPA have to give the property owner of the land being acquired a "Public Information Brochure"?

Yes, it is the federal law.

Can the establishment of "Just Compensation" be determined by an outside consultant or an inside consultant?

No, only an official from the LPA can set the amount of “Just Compensation”.

**Who should you always call/ask when you have a question?
Your ADOT ROW Local Government Liaison (Matt or myself)**

**49 CFR Part 18 UNIFORM
ADMINISTRATIVE REQUIREMENTS FOR
GRANTS AND COOPERATIVE
AGREEMENTS TO STATE AND LOCAL
GOVERNMENTS**

Sec. 18.26 Non-Federal audits.

(a) Basic rule. Grantees and subgrantees are responsible for obtaining audits in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and revised OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations." The audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial audits.

(b) Subgrantees. State or local governments, as those terms are defined for purposes of the Single Audit Act Amendments of 1996, that provide Federal awards to a subgrantee, which expends \$300,000 or more (or other amount as specified by OMB) in Federal awards in a fiscal year, shall:

(1) Determine whether State or local subgrantees have met the audit requirements of the Act and whether subgrantees covered by OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," have met the audit requirements of the Act. Commercial contractors (private for-profit and private and governmental organizations) providing goods and services to State and local governments are not required to have a single audit performed. State and local governments should use their own procedures to ensure that the contractor has complied

with laws and regulations affecting the expenditure of Federal funds;

(2) Determine whether the subgrantee spent Federal assistance funds provided in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subgrantee made in accordance with the Act, Circular A-110, or through other means (e.g., program reviews) if the subgrantee has not had such an audit;

(3) Ensure that appropriate corrective action is taken within six months after receipt of the audit report in instance of noncompliance with Federal laws and regulations;

(4) Consider whether subgrantee audits necessitate adjustment of the grantee's own records; and

(5) Require each subgrantee to permit independent auditors to have access to the records and financial statements.

(c) Auditor selection. In arranging for audit services, Sec. 18.36 shall be followed.

[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 61 FR 21387, May 10, 1996; 62 FR 45939, 45947, Aug. 29, 1997]

23 C.F.R. Part 710 Right-of-Way Program Administration

Part 710, Subpart B-- Program Administration

Section 710.201 clarifies that the STD has the overall responsibility to assure compliance with State and Federal laws and regulations. The methods and practices of the STDs are to be specified in ROW operations manuals submitted for approval by the FHWA no later than January 1, 2001, and certified as current every five years thereafter.

State ROW manuals are considered to be a sound basis for implementing appropriate procedures at the State and local level. It is a State responsibility to maintain the manual and complete the various right-of-way phases in accordance with Federal law and regulations. The manual provides a documented reference for use by State ROW personnel, local public agencies, affected individuals, and the FHWA. Alternative methods to achieve program objectives have been explored in developing this final rule, specifically, efforts were made to reduce the level of Federal oversight, required recordkeeping, and mandated reporting. The FHWA believes that the need for project level surveillance has diminished since the era of the Interstate program when Federal funding was allocated on the basis of the cost to complete the system. Now States receive a fixed allocation of Federal funds based largely on formula. Hence, it is clearly in the States' best interest to use their Federal-aid funds prudently in all areas, including the acquisition, management, and disposition of real property.

ADOT/FHWA Stewardship Agreement

1. Monitoring

All Federal-aid highway projects are subject to review at any time by ADOT and/or FHWA. FHWA's primary monitoring method in this program area will be process reviews or program evaluations. The decision to conduct a process review or program evaluation will consider the FHWA Division Office/ADOT risk-assessment process.

FHWA may select LPA projects for Full Oversight in consultation with ADOT. All ITS projects will be Full Oversight including LPA projects.

§ 24.4 Assurances, monitoring and corrective action

(b) Monitoring and corrective action. The Federal Agency will monitor compliance with this part, and the State Agency shall take whatever corrective action is necessary to comply with the Uniform Act and this part. The Federal Agency may also apply sanctions in accordance with applicable program regulations. (Also see §24.603, of this part).

§ 24.603 Monitoring and corrective action.

(a) The Federal Lead Agency shall, in coordination with other Federal Agencies, monitor from time to time State Agency implementation of programs or projects conducted under the

certification process and the State Agency shall make available any information required for this purpose.

(b) The Lead Agency may require periodic information or data from affected Federal or State Agencies.

(c) A Federal Agency may, after consultation with the Lead Agency, and notice to and consultation with the governor, or his or her designee, rescind any previous approval provided under this subpart if the certifying State Agency fails to comply with its certification or with applicable State law and regulations. The Federal Agency shall initiate consultation with the Lead Agency at least 30 days prior to any decision to rescind approval of a certification under this subpart. The Lead Agency will also inform other Federal Agencies, which have accepted a certification under this subpart from the same State Agency, and will take whatever other action that may be appropriate.

(d) Section 103(b)(2) of the Uniform Act, as amended, requires that the head of the Lead Agency report biennially to the Congress on State Agency implementation of section 103. To enable adequate preparation of the prescribed biennial report, the Lead Agency may require periodic information or data from affected Federal or State Agencies.

23 CFR 710.201 State responsibilities.

a) **Organization.** Each STD shall be adequately staffed, equipped, and organized to discharge its real property-related responsibilities.

(b) **Program oversight.** The STD shall have overall responsibility for the acquisition, management, and disposal

of real property on Federal-aid projects. This responsibility shall include assuring that acquisitions and disposals by a State agency are made in compliance with legal requirements of State and Federal laws and regulations.

(c) Right-of-way (ROW) operations manual. Each STD which receives funding from the highway trust fund shall maintain a manual describing its right-of-way organization, policies, and procedures. The manual shall describe functions and procedures for all phases of the real estate program, including appraisal and appraisal review, negotiation and eminent domain, property management, and relocation assistance. The manual shall also specify procedures to prevent conflict of interest and avoid fraud, waste, and abuse. The manual shall be in sufficient detail and depth to guide State employees and others involved in acquiring and managing real property. The State manuals should be developed and updated, as a minimum, to meet the following schedule:

(d) Compliance responsibility. The STD is responsible for complying with current FHWA requirements whether or not its manual reflects those requirements

(d) Compliance responsibility. The STD is responsible for complying with current FHWA requirements whether or not its manual reflects those requirements

Acceptance projects, the ROW local agency liaison is available to assist the LPA with the appraisal and acquisition process, if needed.

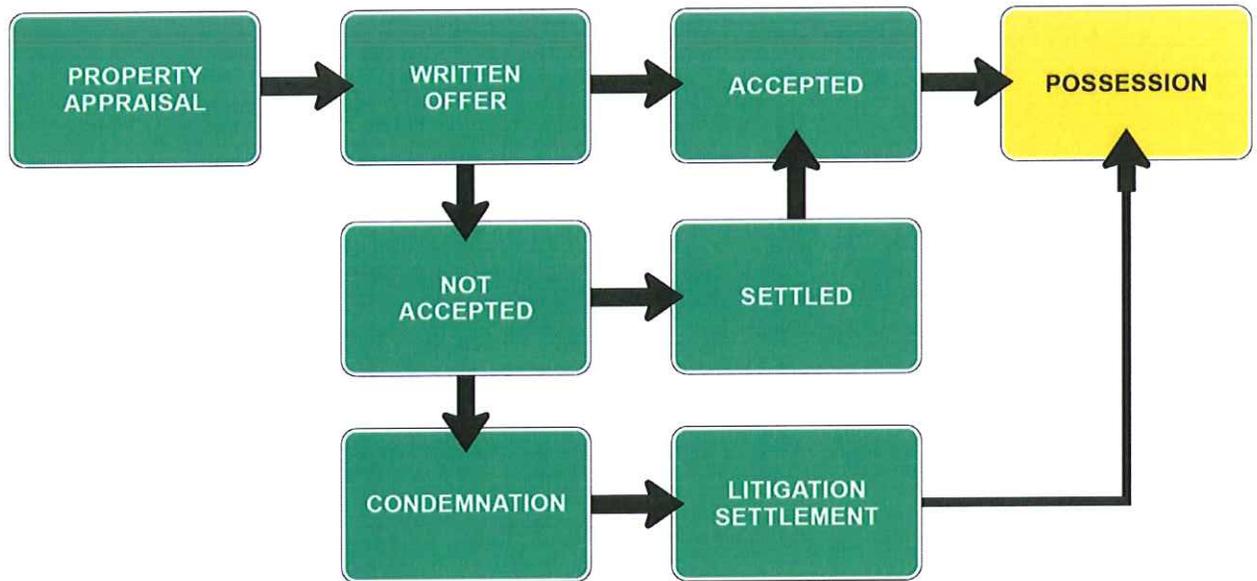


Figure 0-1 ROW Appraisal and Acquisition Process

If the project requires new or additional ROW on private land, an easement may be obtained (if conditions are appropriate), property may be donated, or the property may be appraised in preparation for making a written offer for the property.



In the case that a property owner wishes to donate property, the LPA must provide the property owner with the prepared brochure that informs the property owner of the owner's right to receive compensation for the property. The brochure must also inform the property owner of the owner's right to receive compensation and/or an appraisal for the property. The LPA must obtain a signed and notarized waiver acknowledging that the owner has been informed of this right.

If the new or additional ROW occurs on tribal or public land, approval must be obtained from the applicable tribe or agency to construct the project. A joint project agreement (JPA) or IGA can fulfill this function. Refer to the Tribal, State, and Federal Lands section in this chapter for more information on acquiring tribal or public land.

Appraisals

A property appraisal must be conducted for all parcels to be acquired, unless the market value is less than \$10,000 and acquisition is not anticipated to be complicated. For

ADOT Right of Way Liaison to the Local Governments and Federal Highways Administration



“Uniform Act”:

Public Law 91-646, The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and thereafter Amended; commonly called “The Uniform Act”. The Uniform Act is the primary law for acquisition and relocation activities on Federal or Federally assisted projects and programs.

The Uniform Act applies when a dollar (\$1.00) or more of Federal Funds is used in any portion of a project. That means it still applies even when there are **NO** Federal Funds used in acquisition or relocation activities.

The Uniform Act also pertains to acquisitions by private as well as public entities when the acquisition is for a Federal Funded or Federally assisted project.

LPA Project Process:

LPA Applies for and Receives Federal Aid Grant / STIP (State Transportation Improvement Plan) – TIP (Transportation Improvement Plan)

ADOT Local Government Section Notifies LPA of Proposed Project acceptance / Assigns ADOT Local Government's Tracs # and Federal ID #

ADOT Local Governments Contacts the ROW Liaison (where the Liaison gets involved) / Kick-off Meeting

Environmental Impact Started / Scope of Project / Design to 30% plans / Project Assessment/Design Concept Report

Determination of ROW / Relocation Needs Identified / Relocation Plan Started

Start to Prepare Parcel Files / Secure Title Reports / Layout ROW Needs / Appraisers Notified (if needed)

Hold Public Hearing / Request Initial Design Approval (30%Plans)

Receive Environmental Clearance (1st of 4 needed clearances) / continue to 60 %, 95% and 100% plans

Determine if New ROW is Needed or Not, If No New ROW > At 95% Plans, ROW is Cleared; if New ROW is Needed

Request “Authorization to Proceed” from FHWA for Acquisition after Environmental Clearance

Start Appraisal Process and Review Appraisal Process *

Develop Just Compensation Memo, Offer Letters, Summary Statements

Offers Made – Negotiations – Administrative Settlements

Acquire Property / Start Condemnation Proceedings

Make Payment / Take Possession of Property / Relocation Done

Issue ROW Clearance (2nd Needed Clearance) (Materials and Utility Clearances are the 2 others needed)

* **Relocation / If Needed Begins at the Appraisal Step**

Prime Functions:

- a. **Preliminary Information** – contacts LPAs contemplating highway projects involving use of Federal Funds, and furnishes information to such agencies regarding Federal and State Rules Regulations and Laws, inform them of State Right of Way services available, and explain the project monitoring and Compliance Certification procedure.
- b. **Assists LPAs** to plan and provide guidance on the right of way acquisition/relocation for federal-aid projects in conformance with applicable federal and state laws, regulations and procedures.
- c. **Monitors LPAs' right of way** acquisition and relocation on Federal-aid projects, including all stages of plans, appraisal, negotiation, acquisition, and relocation. This is to insure to the greatest extent possible that such projects conform to Federal requirements; thus enabling them to receive all the funding.
- d. **Monitors LPAs' consultants' right of way** activities on Federal-aid projects, including all phases of negotiation, acquisition relocation, and to insure to the greatest extent that such projects conform to Federal requirements.

- e. **Training Local Agency Personnel** –coordinates training of LPAs' personnel in right of way matters through on-the-job training at the Right of Way Group State offices, or at the LPAs' offices.
- f. **Procedures** –prepares sample forms for the guidance and possible use by the LPAs. The R/W Local Agency Liaison may issue procedures to help accomplish Federal-aid right of way activities by LPAs.
- g. **Technical Assistance** – ADOT recognizes it has a responsibility to provide technical guidance and advice to help accomplish the ROW needs of the LPA.
- h. **Certification** –reports information that is required for an ADOT/FHWA Certification of Compliance/Clearance of the ROW.
- i. **Audit and Review** - ADOT conducts a very methodical and systematic audit/review of the LPA Federally Funded project files. ADOT reviews/audits only the Federally Funded project ROW files/parcel files and reports any anomalies to FHWA; ADOT's job is to help the LPAs as much as possible; ADOT does its best to help the LPA to correct any anomalies found and get them into CFR compliance.

Assisting:

The ROW Liaison helps the LPAs plan and provides guidance on the ROW acquisition/relocation for Federal-Aid Projects; makes sure the projects are in compliance with all applicable Federal and State Rules, Regulations, and Laws.

Assists in the planning stage and can offer guidance with all their ROW needs.

Assists in estimating the right of way costs and calculating a reasonable time schedule for the acquisition of all needed property rights.

Assists in the preparation of acquisition documents, provide ROW acquisition/relocation advice and guidance on the preparation of the documents.

Helps in preparing of a relocation plan and the planning for any needed relocation requirements.

Compliance:

FHWA procedures require ADOT to administer Federal-Aid projects within the rules and regulations required by the Federal Government, including but not limited to the Uniform Relocation Assistance and Real Property Acquisition Policies of Act of 1970 and thereafter amended (Uniform Act) (49 CFR Part 24).

In the ADOT Local Governments' manual, there are certain obligations, assurances and responsibilities that the LPAs give to ADOT on behalf of The Federal Highway Administration (FHWA), ADOT assures that these obligations, assurances and responsibilities are carried out.

The ROW Liaison has the responsibility to assure ADOT and FHWA that the LPAs are following all Federal and State Rules, Regulations and Laws; also makes sure the LPAs understand all Federal and State Rules, Regulations and Laws and they are in compliance with all.

Monitoring:

Monitoring is the process whereby ADOT assures that LPAs' and private consultants' right of way practices are in accordance with all Federal and State regulations, rules, and Laws; and with ADOT policies and procedures.

The ROW Liaison monitors the LPAs' right of way acquisition on all Federal-aid projects, including all stages of planning, appraisal, negotiation, acquisition, and relocation, to insure to the greatest extent possible that such projects conform to federal requirements. This is to insure that the LPA receives every dollar of Federal monies granted to them.

It is ADOT policy to monitor all LPAs highway and non-highway projects whenever Federal Funding is included in any phase of such projects.

Functional areas to be monitored include but not limited to the following:

- (a) Right of Way Planning
- (b) Right of Way Survey and Delineation
- (c) Right of Way Plans
- (d) Appraisal and Appraisal Review
- (e) Acquisition
- (f) Administrative Settlements
- (g) Relocation Planning and Relocation
- (h) Property Management
- (i) Right of Way Certification

Monitoring will insure that the LPAs' consultants will have sufficient time to take corrective action, at the proper stage. The review shall include all major areas of acquisition/relocation. All monitoring will continue until all rights in the property are obtained.

Number of parcels to be monitored – The number of parcels monitored on a local agency project will be determined by the ROW Liaison. If an agency has a good record, and minimum monitoring reveals no substantial variance with applicable regulations, no further monitoring on the project is needed. If the agency has a poor record, or the amount of monitoring accomplished reveals substantial non-compliance or repeated error, further monitoring should be done, on all parcels.

Degree of Monitoring – The monitoring should be sufficient to insure that the overall Federal and State procedures are met. The specific details should be reviewed only to the extent they affect the product. This means that general procedures will be in compliance without necessarily being the same as those used by the State. The monitoring will be based on conformance to the procedures submitted by the agency in becoming qualified. ADOT Acquisition and Relocation Manuals are provided for the LPAs' use.

Monitoring by function – The review shall be on a continuous basis to insure that each right of way function is performed properly. This will insure that the local agency or consultant will have sufficient time to take corrective action at the proper stage. The review shall include an examination of all major functions involved in the right of way acquisition/relocation. The primary emphasis of this monitoring will involve plans, appraisal, acquisition, and relocation assistance.

Monitoring Documentation – A compliance check sheet, relating to the specific right of way function being monitored, may be completed for each parcel selected for review and retained in the project file. Information on any work requiring correction shall be communicated in writing to the local agency with follow up procedures to insure that the correction has been accomplished.

Audit of LPA and Consultant –The audit of the LPA and consultants' ROW projects are basically performed the same way, however, the outcome is totally different. The LPA and consultant have an agreement between them making the consultant an agent of the LPA. If the LPA has anomalies in the audit the LPAs are responsible for them; however if the consultant has anomalies, the LPAs are responsible, not the consultant.

Preliminary Information:

The ROW Liaison contacts the LPAs contemplating highway projects involving use of Federal Funds, and furnishes information to such agencies regarding Federal and State laws and regulations, informs them of State right of way services available, and explain the project monitoring and compliance certification procedure.

Attends the LPAs kick-off meetings in order to explain what all is needed for ROW and gives input as to the time schedule and cost estimates for ROW; also there to answer any questions.

Has a duty to make known to all LPAs the requirements for all types of projects, but also has an obligation to assist in the education of the LPAs in the proper procedures and with the State and Federal Rules, Regulations, and Laws.

Training:

The ROW Liaison coordinates training of LPAs' personnel in Right of Way matters through on-the-job training at the Right of Way Group State offices, at the LPAs' offices, or at a place one of the COGs/MPOs secures for a workshop.

Keeps all LPAs informed of any Rules, Regulations or Law updates, deletions and/or changes. The ROW Liaison must not only train the LPAs in the Rules, Regulations or Law, but also make sure any new LPA employee knows all the Federal Rules, Regulations or Laws. Also must be well versed in all components of the Right of Way process from start to finish and how to instruct in all components of them.

Procedures:

Planning –Assists LPAs in planning their projects. This assistance is particularly necessary in regard to establishing proper lead-times for projects.

Compliance Assurance –Establishes specific means to enforce compliance with legal and policy requirements by LPAs. This is necessary to insure that no portion of Federal Funds are lost.

Contract Services –Has the capability of advising and providing guidance for ROW services for LPAs, when requested; The ROW Liaison may also advise and provide guidance on the use of consultant services to provide the necessary acquisition or relocation function.

Certification –Required to certify LPAs' projects where Federal Highway Administration funds participate in project costs. This certification contains statements as to the rights of way acquired and the procedures followed.

Due to possible changes of personnel within LPAs, and various changes in federal and state laws and requirements, a review of all qualified agencies must be made periodically to determine if their staff and procedures are still adequate to perform in compliance with State and Federal requirements. At the time of review, the LPAs can also be made aware of any changes in policies or procedures made since the date of the previous review.

Local agencies that have not utilized their qualification in an extended period will be reviewed prior to their starting any new projects.

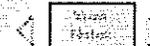
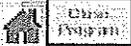
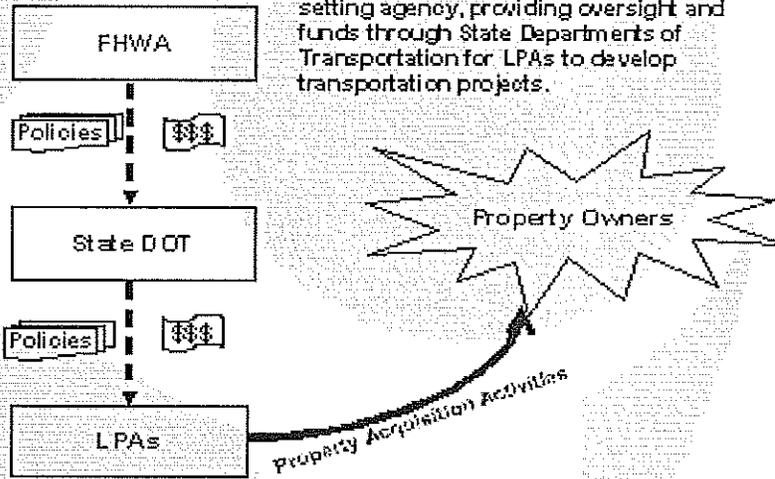
Local agencies are required to notify the ROW Liaison of any policy changes affecting the procedures under which they were qualified and if any new personnel are hired.

The ROW Liaison may provide guidance for right of way services for a LPA and advise them on the policy changes.



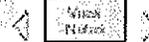
Real Estate Acquisition Activities

FHWA is a policy/program direction setting agency, providing oversight and funds through State Departments of Transportation for LPAs to develop transportation projects.



Federal Laws and Regulations for Property Acquisition

- Federal Law, passed by U.S. Congress:
 - ◆ 23 US Code – Highways.
 - ◆ 42 US Code – Transportation.
- Code of Federal Regulations:
 - ◆ 23 CFR Part 710 – Highways.
 - ◆ 49 CFR Part 24 – Transportation.



Your Local Liaison maintains a list of persons who appear to be qualified for appraising, review appraising, negotiating and relocation assistance based upon information provided by those contractors asking to be placed on our lists. You need to satisfy yourself that they are qualified to perform the work you require. We have provided you with a brief overview of some items we feel are important.

Appraisers **MUST**

Have successfully completed technical appraisal training and have experience in appraising the type of property to be appraised. When in doubt, a sample appraisal should be requested.

Have previous experience preparing appraisals for eminent domain right of way acquisition.

If a detailed appraisal is required and a consultant is used, the consultant **MUST** be a certified appraiser.

Review Appraiser **MUST**

As a minimum, have the qualifications listed above for appraisers or be a full-time employee of the LPA or the DOT.

Possess the ability to logically analyze the appraiser's approach to value and recognize deficiencies in the appraisal report.

Be certified if a certified appraiser is required.

NOTE: Should you decide to utilize the services of a fee review appraiser your agency retains the responsibility to approve the amount believed to be just compensation.

Negotiators MUST

Have documented experience in performing acquisitions which complies with the requirements of the Uniform Act or be a full-time employee of the LPA or the DOT.

Be familiar with the requirements of the Uniform Act.

Demonstrate the ability to understand appraisals and appraisal reviews.

Know how to research courthouse records and understand legal title.

Demonstrate the ability to interpret right-of-way plans.

Possess effective communication skills.

Relocation Assistance

Agents must

Have documented experience in performing relocation assistance which complies with the requirements of the Uniform Act.

Sufficient right of way knowledge in other disciplines to work within a team.

Summary of Valuation Process

The following steps have been provided as a quick guide to help you through the valuation process.

Determine the appropriate type of valuation needed.

Consult with your Local Liaison Rely on staff expertise

Obtain advice from other areas

Assign the work to the appropriate people.

Appraisers with expertise for the type of appraisal problem.

Acquisition agents with sufficient expertise to develop compensation estimates.

If appraiser completes the compensation estimate they could also serve as acquisition agent.

Complete the necessary review

Qualified review appraiser for appraisal review.
Qualified staff for administrative review of compensation estimates.

Establish your agency's approved estimate of fair and just compensation.

Must be an official of the acquiring agency.

Amount must be, at a minimum, the lowest appraisal received.

Should be written and documented in parcel file.

Administrative settlements should describe the acquisition, state the offer of just compensation and the proposed negotiated settlement, introduce information which supports the settlement and request approval from the proper authority. The settlement may also include information on recent court awards for similar type property, the property owner's appraisal data, an estimate of trial cost or an opinion of legal counsel. The settlement **MUST** be approved by an officer of your agency having responsibility for the right of way acquisition (not the negotiator). The person approving the settlement must be able to judge the risk/benefit issues of a potential court action.

For planning purposes, the following are estimates of the length of time it takes to accomplish various aspects of a LPA Project. Some activities may overlap. These time estimates vary greatly depending on the size and complexity of the project.

- | | |
|--|------------------|
| • Submittal of LPA data sheet | Initiate process |
| • Establishment of kick-off meeting | 1 month |
| • Generation of agreement | 1-6 months |
| • Fully executed agreement and notice to proceed with design | 1-2 months |
| • National Environmental Policy Act of 1969 (NEPA) Categorical Exclusion | 3-9 months |

Environmental Assessment	6-18 months
Environmental Impact Statement	24-
36 months	
• Design	6-18 months
• Right-of-way processes and utility identification, adjustment and/or relocation	6-36 months
• Review times for plans submittals	3 weeks per submittal
• Notice to proceed with construction	6-8 weeks from approval of final submittal & required local agency certifications
• Construction	6-36 months

**49 CFR Part 18 UNIFORM
ADMINISTRATIVE REQUIREMENTS FOR
GRANTS AND COOPERATIVE
AGREEMENTS TO STATE AND LOCAL
GOVERNMENTS**

Sec. 18.26 Non-Federal audits.

(a) Basic rule. Grantees and subgrantees are responsible for obtaining audits in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and revised OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations." The audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial audits.

(b) Subgrantees. State or local governments, as those terms are defined for purposes of the Single Audit Act Amendments of 1996, that provide Federal awards to a subgrantee, which expends \$300,000 or more (or other amount as specified by OMB) in Federal awards in a fiscal year, shall:

(1) Determine whether State or local subgrantees have met the audit requirements of the Act and whether subgrantees covered by OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," have met the audit requirements of the Act. Commercial contractors (private for-profit and private and governmental organizations) providing goods and services to State and local governments are not required to have a single audit performed. State and local governments should use their own procedures to ensure that the contractor has complied

with laws and regulations affecting the expenditure of Federal funds;

(2) Determine whether the subgrantee spent Federal assistance funds provided in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subgrantee made in accordance with the Act, Circular A-110, or through other means (e.g., program reviews) if the subgrantee has not had such an audit;

(3) Ensure that appropriate corrective action is taken within six months after receipt of the audit report in instance of noncompliance with Federal laws and regulations;

(4) Consider whether subgrantee audits necessitate adjustment of the grantee's own records; and

(5) Require each subgrantee to permit independent auditors to have access to the records and financial statements.

(c) Auditor selection. In arranging for audit services, Sec. 18.36 shall be followed.

[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 61 FR 21387, May 10, 1996; 62 FR 45939, 45947, Aug. 29, 1997]

23 C.F.R. Part 710 Right-of-Way Program Administration

Part 710, Subpart B-- Program Administration

Section 710.201 clarifies that the STD has the overall responsibility to assure compliance with State and Federal laws and regulations. The methods and practices of the STDs are to be specified in ROW operations manuals submitted for approval by the FHWA no later than January 1, 2001, and certified as current every five years thereafter.

State ROW manuals are considered to be a sound basis for implementing appropriate procedures at the State and local level. It is a State responsibility to maintain the manual and complete the various right-of-way phases in accordance with Federal law and regulations. The manual provides a documented reference for use by State ROW personnel, local public agencies, affected individuals, and the FHWA. Alternative methods to achieve program objectives have been explored in developing this final rule, specifically, efforts were made to reduce the level of Federal oversight, required recordkeeping, and mandated reporting. The FHWA believes that the need for project level surveillance has diminished since the era of the Interstate program when Federal funding was allocated on the basis of the cost to complete the system. Now States receive a fixed allocation of Federal funds based largely on formula. Hence, it is clearly in the States' best interest to use their Federal-aid funds prudently in all areas, including the acquisition, management, and disposition of real property.

ADOT/FHWA Stewardship Agreement

1. Monitoring

All Federal-aid highway projects are subject to review at any time by ADOT and/or FHWA. FHWA's primary monitoring method in this program area will be process reviews or program evaluations. The decision to conduct a process review or program evaluation will consider the FHWA Division Office/ADOT risk-assessment process.

FHWA may select LPA projects for Full Oversight in consultation with ADOT. All ITS projects will be Full Oversight including LPA projects.

§ 24.4 Assurances, monitoring and corrective action

(b) *Monitoring and corrective action.* The Federal Agency will monitor compliance with this part, and the State Agency shall take whatever corrective action is necessary to comply with the Uniform Act and this part. The Federal Agency may also apply sanctions in accordance with applicable program regulations. (Also see §24.603, of this part).

§ 24.603 Monitoring and corrective action.

(a) The Federal Lead Agency shall, in coordination with other Federal Agencies, monitor from time to time State Agency implementation of programs or projects conducted under the

certification process and the State Agency shall make available any information required for this purpose.

(b) The Lead Agency may require periodic information or data from affected Federal or State Agencies.

(c) A Federal Agency may, after consultation with the Lead Agency, and notice to and consultation with the governor, or his or her designee, rescind any previous approval provided under this subpart if the certifying State Agency fails to comply with its certification or with applicable State law and regulations. The Federal Agency shall initiate consultation with the Lead Agency at least 30 days prior to any decision to rescind approval of a certification under this subpart. The Lead Agency will also inform other Federal Agencies, which have accepted a certification under this subpart from the same State Agency, and will take whatever other action that may be appropriate.

(d) Section 103(b)(2) of the Uniform Act, as amended, requires that the head of the Lead Agency report biennially to the Congress on State Agency implementation of section 103. To enable adequate preparation of the prescribed biennial report, the Lead Agency may require periodic information or data from affected Federal or State Agencies.

23 CFR 710.201 State responsibilities.

a) **Organization.** Each STD shall be adequately staffed, equipped, and organized to discharge its real property-related responsibilities.

(b) **Program oversight.** The STD shall have overall responsibility for the acquisition, management, and disposal

of real property on Federal-aid projects. This responsibility shall include assuring that acquisitions and disposals by a State agency are made in compliance with legal requirements of State and Federal laws and regulations.

(c) Right-of-way (ROW) operations manual. Each STD which receives funding from the highway trust fund shall maintain a manual describing its right-of-way organization, policies, and procedures. The manual shall describe functions and procedures for all phases of the real estate program, including appraisal and appraisal review, negotiation and eminent domain, property management, and relocation assistance. The manual shall also specify procedures to prevent conflict of interest and avoid fraud, waste, and abuse. The manual shall be in sufficient detail and depth to guide State employees and others involved in acquiring and managing real property. The State manuals should be developed and updated, as a minimum, to meet the following schedule:

(d) Compliance responsibility. The STD is responsible for complying with current FHWA requirements whether or not its manual reflects those requirements

(d) Compliance responsibility. The STD is responsible for complying with current FHWA requirements whether or not its manual reflects those requirements

General notes and information for LPAs

Request for Right-of-Way Clearance

Upon completing the acquisition of all required parcels for ADOT-administered projects, the LPA may request ROW clearance by submitting a clearance package to ADOT that includes:

- A completed and signed ROW Certification form
- Environmental clearance date
- FHWA authorization-to-proceed date
- Approved PS&Es with the new ROW highlighted
- Any other ROW documentation, if requested by the ROW local agency liaison

The ROW local agency liaison is responsible for preparing the ROW clearance memo.

Uniform Act

Title 42 USC Chapter 61, Uniform Relocation Assistance and Real Property Acquisition Policies Act for Federal and Federally Assisted Programs, as amended (Uniform Act), is the primary law for acquisition and relocation activities on federal or federally assisted projects and programs. The Uniform Act provides assistance and protection to people affected by federally funded projects. The law protects individuals and groups whose real property is acquired or who are displaced as a result of projects that receive federal funds. The Uniform Act requires fair and equitable treatment, as well as the provision of relocation assistance, to affected individuals or groups. Other federal laws governing public project and program activities include Title 23 USC, Highways; Title 49 USC, Transportation; 23 CFR 710; and 49 CFR 24.

The Uniform Act applies to all projects receiving federal funds or federal financial assistance where real property is acquired or people are displaced as a result of acquisition, demolition, or rehabilitation. Anyone connected with the process of acquiring real property for federally assisted projects should be familiar with its provisions. For a link to the full text of the Uniform Act, refer to the Resources list at the end of this chapter.

Monitoring

Through monitoring, ADOT ensures that LPAs and their consultants conduct ROW practices in accordance with all ADOT policies and procedures, including federal and state regulations, rules, and laws. It is ADOT policy to monitor all LPAs projects when federal funds are included in any phase of a project. The ROW local agency liaison

monitors the LPAs' ROW acquisition on all federal-aid projects, including all stages of planning, appraisal, negotiation, acquisition, and relocation, to ensure to the greatest extent possible that such projects conform to federal requirements.

Functional areas to be monitored include but are not limited to the following:

- ROW planning
- ROW survey and delineation
- ROW plans
- Appraisal and appraisal review
- Acquisition
- Administrative settlements
- Relocation planning and relocation
- Property management
- ROW certification

Monitoring will ensure that the LPAs and their consultants have sufficient time to take corrective action, if necessary. All monitoring will continue until all rights in the property are obtained.

Number of Parcels to be Monitored

The number of parcels monitored on an LPA project will be determined by the ROW local agency liaison. The number of parcels to be monitored will be based on the LPA's record and the initial evaluation of the ROW local agency liaison. Depending on the review, the amount of monitoring required may increase or decrease.

Degree of Monitoring

Monitoring will be sufficient to ensure that the overall federal and state procedures are met. Monitoring may be based on conformance to the procedures submitted by an LPA when requesting to administer the ROW clearance process.

Monitoring by Function

The ROW local agency liaison's review will be on a continuous basis to ensure that each ROW function is performed properly. This will ensure that the LPA or consultant will have sufficient time to take corrective action at the proper stage. The review will include an examination of all major functions involved in the ROW acquisition/relocation. The primary emphasis of this monitoring will involve plans, appraisal, acquisition, and relocation assistance.

Monitoring Documentation

A compliance check sheet, relating to the specific ROW function being monitored, will be completed for each parcel selected for review. Information on any work requiring correction will be communicated in writing to the LPA with follow-up procedures to ensure that the correction has been accomplished.

Audit of LPAs and Consultants

Auditing of LPAs and their consultants will be completed by the ROW local agency liaison. Anomalies discovered during an audit are the responsibility of the LPA, regardless of any agreement between the LPA and its consultant.

Recordkeeping and Reporting

Files for each parcel acquired for ROW should be maintained in separate folders. Contents of files should include copies of:

- Appraisals of the parcel
- The appraisal review with conclusion of value (dated and signed)
- Just-compensation summary statement and the amount believed to be the just compensation (signed by the LPA's authorized property acquisition official)
- The negotiator's diary or contact report summarizing all actions regarding the parcel
- All correspondence
- If the parcel was obtained by donation, the original signed donation waiver
- Any administrative settlements with a memo of justification
- If the parcel was purchased, include:
 - Copy of the appraisal
 - Copy of the offer letter
 - Copy of the deed or other instrument
- All condemnation proceedings and associated correspondence
- If relocation is involved, include:
 - All letters and notices to property owner
 - Eligibility Determination Worksheet
 - Moving estimate and moving documents
 - All final documents concerning move
 - Property vacate date

ROW records must be kept for 5 years following FHWA closeout of the project in FMIS.

Roles and Responsibilities

The fundamental responsibility of the LPA is to perform ROW activities that conform to federal and state laws and regulations. The primary role of ADOT is to assist the LPA with the ROW process, including property acquisition, on federally funded projects. The primary role of FHWA in the ROW process is to provide final authorization of ROW activities on NHS projects. Specific roles and responsibilities for achieving ROW clearance will vary depending on the nature of the project and whether it is an ADOT-administered or Certification Acceptance project. General roles and responsibilities of the LPA, ROW Group, and FHWA for different project types are provided in Table Error! No text of specified style in document.-1 and Table Error! No text of specified style in document.-2.

**Table Error! No text of specified style in document.-1 Roles and Responsibilities
for Right-of-Way Clearances,
ADOT-Administered Projects**

Task	LPA	ADOT	FHWA
Authorization for ROW activities	Work with ADOT to request and secure authorization to proceed from FHWA	Work with LPA to request and secure authorization to proceed from FHWA	Provide authorization to proceed
Scoping document (e.g., PA, DCR)	Prepare and submit to the ROW Project Management Section	Review	N/A
ROW plans	Prepare and submit to ROW Group for review	Review	N/A
Appraisal, acquisition, and relocation activities, if needed	Administer in compliance with federal laws, regulations, and requirements; obtain ADOT approval for acquisitions	Provide support as needed; monitor for compliance	Provide oversight, if requested; assist in the process to acquire federal land
ROW Certification form	Prepare and submit to ROW Group for non-NHS projects and FHWA for NHS projects	Review and approve for non-NHS projects	Review and approve for NHS projects
ROW clearance memo	N/A	Prepare ROW clearance memo upon approval of the ROW Certification form; submit to FHWA for NHS projects; forward to the ADOT project manager	Review and approve for NHS projects

**Table Error! No text of specified style in document.-2 Roles and Responsibilities
for Right-of-Way Clearances,
Certification Acceptance Projects**

Task	LPA	ADOT	FHWA
Authorization for ROW activities	Work with ADOT to request and secure authorization to proceed from FHWA	Work with LPA to request and secure authorization to proceed from FHWA	Provide authorization to proceed
Scoping document (e.g., PA, DCR)	Prepare	N/A	N/A
ROW plans	Prepare	N/A	N/A
Appraisal, acquisition, and relocation activities, if needed	Administer in compliance with federal laws, regulations, and requirements	Provide support as needed	Provide oversight, if requested; assist in the process to acquire federal land
ROW Certification form	Prepare; submit to FHWA for NHS projects	N/A	Review and approve for NHS projects
ROW clearance memo	Prepare; submit to FHWA for NHS projects; forward to the ADOT project manager	Review	Review and approve for NHS projects

When is a Local Public Agency's Project Federalized

After several conversations with different Local Public Agencies (LPAs) it has come to my attention there may be some misunderstanding about the Right of Way process using LPAs' own money. Also what constitutes a project becoming federalized.

I will answer the last question first. If a LPA has a project that utilizes one dollar (\$1.00) or more of federal funding/aid, in any portion of that project, it becomes federalized. Therefore all federal and state laws must be followed including The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as Amended (Uniform Act).

Whether or not a LPA uses federal funds or their own money in acquiring the right of way, all federal and state laws including the Uniform Act MUST be followed strictly for a project to be eligible to receive federal funds anywhere in the project. You cannot acquire right of way in a manner that is not in accordance with the Uniform Act and State laws and expect the federal government to provide funding for the project.

There might be some changes coming after the MAP 21 is further analyzed and FHWA gives more guidance to it.

If you have any questions on this, please do not hesitate to contact me.

Louis J. Malloque

Louis J. Malloque

Right of Way Agent III,
Liaison to the Local Public Agents

Administrative Settlements

The Uniform Act requires that the head of a governmental agency shall make every reasonable effort to expeditiously acquire real property by negotiation. Negotiation implies an honest effort by the acquiring agency to resolve differences with property owners.

Negotiations should recognize the inexact nature of the process by which just compensation is determined. Further, the law requires an attempt by agencies to expedite the acquisition of real property by agreements with owners and to avoid litigation and relieve congestion in the courts.

In addition to the mandates of the Uniform Act, there are significant cost savings, which can be realized through an increased use of administrative and legal settlements. Cost savings are in the areas of salaries, witness fees, travel, per diem, court costs, etc.

FHWA and ADOT encourage LPAs to carefully consider and maximize use of administrative settlements in appropriate situations.

An administrative settlement is a negotiated settlement of a right of way acquisition case in which the LPA and ADOT have administratively approved payment in excess of the FMV.

If the LPA anticipates requesting federal participation in the portion of the administrative settlement over the FMV, the administrative settlement must be approved by ADOT prior to the LPA finalizing the settlement. In this scenario, when the LPA agrees to the administrative settlement it should notify the landowner or landowner's representative that the settlement is subject to ADOT approval.

The LPA should then notify the ADOT ROW Liaison of the amount of the administrative settlement and the reasons for entering into the settlement. If the settlement is within certain delegated limits (each LPA may have a different amount based on experience) and the ADOT ROW Liaison determines that the settlement is reasonable, the ADOT ROW Liaison can verbally approve the administrative settlement. A written justification and approval signature will follow.

Administrative settlements shall describe the acquisition, state the offer of just compensation and the proposed negotiated settlement, introduce information which supports the settlement and request approval from the proper authority. The settlement may also include information on recent court awards for similar type property, the property owner's appraisal data, an estimate of trial cost or an opinion of legal counsel.

The settlement **MUST** be approved by an officer of your agency having responsibility for the right of way acquisition (not the negotiator). The person approving the settlement **MUST** be able to judge the risk/benefit issues of a potential court action.

If the settlement is outside of certain delegated limits, a written request to approve the administrative settlement will be required. The ADOT ROW Liaison can provide the LPA with the ADOT wording to be used for such written request. After the request is completed, it should be tendered to the ADOT ROW Liaison.

If the portion of the administrative settlement is under 10% of the FMV, the ADOT ROW Liaison may approve the settlement for Federal participation immediately.

If the participating portion of the settlement is over 10% of the original FMV, the ADOT ROW Liaison will consider it for approval based on documentation provided.

If an administrative settlement is approved by the ADOT ROW Liaison, the entire amount of the settlement is eligible for federal participation. If an administrative settlement is rejected, the LPA can request ADOT to notify it of an acceptable administrative settlement.

If the LPA then agrees to an administrative settlement higher than the ADOT approved settlement amount, the LPA can agree to the higher settlement with the understanding that the amount of the settlement above ADOT's approved settlement will not be eligible for federal participation.

Instructor's Guide for Handouts:

Contact report

Certification of right of way

Items needed when there is Right of Way

Items needed from a LPA

Parcel checklist (what should be in every parcel file)

Right of way checklist

Waiver of compensation

Market analysis (short form appraisal)

Offer letter with appraisal

Offer letter with comparables

Summary statement



RIGHT OF WAY ACQUISITION SECTION
CONTACT REPORT



Owner or Tenant Site:

Name: [REDACTED]
 Address: [REDACTED]
 City: Benson
 State: AZ Zip: 85602

Mailing Address:

Name:
 Address:
 City:
 State: Zip:

Contact:

Name: Earl or Ruby
 Phone: [REDACTED]
 Pager:
 Cell Phone: [REDACTED]
 Fax:

CONTACT HISTORY

1/15/09 Louie Alcocer forwarded the file for Earl and Ruby [REDACTED], displace on the parcel owned by Calvary Baptist Church which is off an access road on I-10 and State Route 90. The project is Tucson-Benson Highway, Skyline T.I. to Ocotillo T.I. for enhancing the interchange and straightening roadway curves along I-10 (Project is a safety issue). The [REDACTED] resided in a 1987 Bounder, class A, 34' RV Motor Home and it is stated in the interview they pay no lot space rent, and has full RV hook-ups. It also stated the RV no longer runs. They pay no Lot Space Rent in exchange for care taking as a service to God. They pay approx. \$20 for utilities, as a donation to church. The survey states that Earl and Ruby have a combined income from SS and retirement of \$2,110.26 monthly. Earl and Ruby are 88 and 77 years of age and I believe that extreme care will be needed in relocation because of their age. They wish to remain with the church as the church is there support system. This is Last Resort Housing

I checked 49 CFR 24.402(b) (2) (ii) for Low Income. The low income for Cochise County for two people is \$30,800 which means that Earl and Ruby [REDACTED] are low income (\$25,320).

They will be entitled to Lot Space Rent, but have stated that they wish to move with church to the new location. This is Last Resort Housing; therefore; the Lot Space Rent is approve even though the will end up back with the church after the church's new facility has been build. They will need to pay Lot Space Rent and

[REDACTED], Acquisition R/W Agent, 602-712-[REDACTED]

Project: 010 CH 289 H650 401R Highway: TUCSON – BENSON HIGHWAY
 Section: Skyline T.I. – Ocotillo T.I. Parcel: 2-1076-MH-001

utilities until the unit can be move to the church property. The church is building a on the parcel of land and that will be the reason for the delay.

There is an RV Park in Benson, "Benson I-10 RV Park. The Park's regular rates are \$26-28 dollars a day, or \$250 monthly; however; most parks will not rent to an RV that are this old and condition.

The survey states that the RV is DS&S and if so we could pay to have it towed or repair the RV to be drivable or at least movable (tires, motor work).

They have a sheds and in past experience it is more economical to move the shed contents and purchase replacement shed. (May be a deliver charge as Sierra Vista is the nearest Lowes and Home Depot.)

The survey also states they have a porch and a handicap ramp. A handicap ramp on a replacement property will be needed.

I feel a site visit would be appropriate.

1/20/09

Louie [REDACTED] and I meet with Larry [REDACTED], Pastor, and Earl [REDACTED], tenant, moving companies, Paul from Daniels and Vince from Horizon Mover to obtain bids for moving the contents of the RV and the 2 storage sheds. We were going to get a bid to move the 1987, 34' Bounder but after viewing the RV, Louie [REDACTED] and I agreed that it is **non-DS&S** plus It has been sitting in this space since 1999 and the probability of damage to the RV's plumping and electric if moved and in very worn condition. The tires were cracked and damaged, plus its support by wooden jacks stands, the floor is squishy and it does not run.

Earl told us that Ruby had a pace maker put in very recently so handicap features will be needed.

I gave Earl a reassignment letter and my business card stating if he had questions to call.

1/21/09

A replacement house payment will need to be calculated.

I telephoned the movers and asked them to change the move bid to the 2 shed and contents of RV.

They will need to store the items in the 2 sheds.

2/2/09

Telephoned Wilharm Self Storage in Benson (520-[REDACTED]) 118 W. Silverwood, Benson. I spoke with Mrs. [REDACTED] and she said that is a Mom & Pop type place

[REDACTED], Acquisition R/W Agent, 602-712-[REDACTED]

Project: 010 CH 289 H650 401R

Highway: TUCSON – BENSON HIGHWAY

Section: Skyline T.I. – Ocotillo T.I.

Parcel: 2-1076-MH-001

with no security and no office onsite. They have one 10X12 available at this time renting for \$60 a month.

I telephoned B&L RV & Mini Storage at [REDACTED] and he has at this time 2, 8X20 at \$105 a month plus tax and 4, 8X10 which he would rent for the \$105 plus tax. That is all he has available and will not hold unless monies are paid.

Telephoned DLH Self Storage and they have 2, 10X10 for \$55 month and 1, 6X12 for \$50 month. They have an on-site manager and chain link fence. There is a \$50 refundable deposit. Will not hold until deposit. Neither unit will hold contents of the 2 sheds.

2/11/09 Received move bid from Daniels movers in the amount of \$1,753.74. Have not received bid from 2nd mover.

I telephoned Horizon Movers and was giving a verbal of \$2,000.

2/17/09 Telephoned R. [REDACTED] and set an appointment to present relocation benefits at 1:00 p.m. on the 18th.

Received Price Differential and offer price for purchase of RV. Prepared documents for tomorrow's meeting.

2/18/09 Meet with the Earl and Ruby [REDACTED] at the appointed time and presented offer to purchase their 1987 Bounder, Price Differential, Lots Space Rent and Moving cost. Earl and Ruby were agreeable and signed the purchase agreements and they signed the Certification of Title and I notarized it. I told them they should have a check in 2-3 weeks. I asked if they understood because the church site will not be ready until a later date, I could only pay for one move but part of that move would be into storage for the shed contents and out of storage into new shed. They said they understood.

We discussed the replacement mobile homes and will go and view the ones in Benson. It will be necessary to place the contents of the 10X12 and 8X4 sheds in storage. The 8X4 with ramp belongs to the Church. A replacement of the shed that belongs to the [REDACTED] will be needed.

Regardless of which mobile home they purchase or where we will have to move it on to the church replacement property as they wish to remain with the church.

We drove to B&L RV & Mini Storage at 108 West 4th Street and spoke with Bruce. He said they rent for \$105 a month. The Murphys rented the 8X20 mini storage units and will assign storage monies to B&L. Bruce said it was a good idea to get insurance. I have a copy of rental agreement and will prepare Claim

[REDACTED], Acquisition R/W Agent, 602-712-[REDACTED]

Project: 010 CH 289 H650 401R Highway: TUCSON – BENSON HIGHWAY
Section: Skyline T.I. – Ocotillo T.I. Parcel: 2-1076-MH-001

payment form for Earl and Ruby signature when I return to office and have them sign next Monday. I will need W9 from B&L and will email to Bruce and pick-up the Monday.

We drive to [REDACTED] Ridge Mobile Home Park and Diane the Park Manager let us view the #16 and #7 mobile home. The unit she had in [REDACTED] Park is gone. They want to go to Tucson next week and view the 2 that were found there.

2/19/09 Prepared Parcel Transmittal and submitted for payment.

RELOCATION CONTINUES

2/23/09 Meet with Earl and Ruby [REDACTED] and drove them to Tucson to look at 2 mobiles, one is a 1995 – CAVCO in Parkway, a 55 or older community and the other is a 1992 – CAVCO in Paradise Village. Earl kept telling Ruby I can not drive in Tucson (he has a hard time finding his way around). I drop them off at the church and told them that they could look on their own and once they decided to let me know. They want to have Pastor [REDACTED] look at the mobile in Benson so arrangements were made to view the mobile in the morning.

Had Ruby sign a claim payment form assigning payment #1 to B&L RV & Mini Storage.

I stop by B&L RV and Mini Storage to get a W-9 signed so that I can pay them directly for the storage. The manager Bruce was upset; he thought I was bringing him a check. I say no I need to get the W-9 and will drop off check next week.

2/24/09 Pickup Ruby and Earl and drove to [REDACTED] Ridge Mobil Home Park and viewed the 2003 – Champion. Ruby, Earl [REDACTED] and I meet with the Diane, Park Manager and the [REDACTED]'s discussed the purchase contract. There are several minor items to fix (two ceiling cracks and a door frame) and a dishwasher to be installed. She said there is a 30 day warranty on all items. They will fax the copy to me when completed so I can process claim payment form for Price Differential.

I processed Claim payment for payment for B&L for storage. Again, picked up brochure for ordering insurance – its \$54 for 3 month coverage as he has quite a few expensive tools. I will pay directly to Ruby and Earl so they can mail in to insurance company.

2/25/09 Prepared claim payment form for \$54 for insurance and submitted for payment.

[REDACTED], Acquisition R/W Agent, 602-712-[REDACTED]

Project: 010 CH 289 H650 401R Highway: TUCSON – BENSON HIGHWAY
Section: Skyline T.I. – Ocotillo T.I. Parcel: 2-1076-MH-001

2/26/09 Received "Manufactured Home Purchase Agreement" for Mr. and Mrs. [REDACTED] replacement home and a lot rental agreement for the [REDACTED] Ridge Mobile Home Park. There is no W9.

Telephoned Dianne from [REDACTED] Ridge and asked for W9 and she will fax this morning.

Processed payment to Lot Rental Assistance payment.

3/3/09 Received faxed copy of W9, processed Claim Payment Form for PD.

3/4/09 3 out of 4 checks are in, will hand deliver tomorrow. Telephoned Rudy and let her know I would be down with the checks.

I asked [REDACTED] to bring the 4th check that is due in tomorrow as she is attending an Open House Meeting in Benson tomorrow night.

3/5/09 Meet with Ruby and Earl [REDACTED] and hand delivered the check for acquisition of motor home and for reimbursement of insurance for the mini storage. Ruby will get a certified check for the first portion of the replacement site.

Tried to do a DS&S at replacement site but Manager unavailable.

Drove to B&L RV & Mini Storage and delivered check for rent of mini storage, it is paid until June 1, 2009. They charged me a \$5 late fee which I had to pay in cash out of my own pocket.

3/6/09 Meet with Ruby and Earl [REDACTED] and delivered the Lot Space Rental Assistance check.

Drove Ruby to the replacement site and Diane, Manager was there so I drove her back to the bank and she got a certified check. Drove back to the Manager and she paid for the first portion of the replacement site and I explained that I would not have the last check until next week and would hand deliver it. Diane, Manager said they could get the key next week.

Diane gave me key and Ruby and I went to the Mobile Home. No electric was on so I could not complete DS&S. Ruby and Earl want to move next week Thursday. I will schedule the move. They have not installed the dish washer and they are just completing the repair on the door frame, but promised that all would be complete by the 10th.

Ruby signed claim payment form for movers.

[REDACTED], Acquisition R/W Agent, 602-712-[REDACTED]

Project: 010 CH 289 H650 401R Highway: TUCSON – BENSON HIGHWAY
Section: Skyline T.I. – Ocotillo T.I. Parcel: 2-1076-MH-001

RIGHT OF WAY CERTIFICATION

PROJECT:

HIGHWAY:

SECTION:

The Town of hereby certifies in connection with the right of way for
All required right of way for construction of this project has now been acquired, or is covered by Right of Entry
or Order of Immediate Possession, except as noted in Certificate, as set forth in detail below:

1. STATUS OF NEW RIGHT OF WAY:

- a. Total number of parcels required _____
- b. Parcels acquired by purchase _____
 - B1. Amount of Federal dollars spent on acquisition \$ _____
 - B2. Amount of Local dollars spent on acquisition \$ _____
- d. Parcels acquired by dedication _____
- e. Parcels covered by Right of Entry _____
- f. Parcels covered by Order of Immediate Possession _____

2. RIGHT OF WAY ACQUIRED FOR OTHER PURPOSES:

Was any right of way not included above acquired since January 1, 1971?

Yes _____ No _____

(If answer is "Yes", attach a statement listing each such parcel indicating the date and how it was acquired)

3. SCHEDULE FOR REMOVAL OF IMPROVEMENTS AND OBSTRUCTION

Initial one (1) statement below:

- a. No improvements or obstructions are involved. _____
- b. Removal of improvements and obstructions is included in the State's construction contract. _____
- c. Improvements and obstructions will be removed by City/County forces or by separate contract prior to _____
(Date) _____

(If "c" is checked, attach detailed list with schedule of their removal)

4. PARCEL INVENTORY:

Attached hereto is an inventory listing each parcel required for this project. The listing shows parcel number, name of owner, interest acquired, or to be acquired, and status of acquisition (acquired, Right of Entry, Order of Immediate Possession, or other). N/A _____ See attached

5. **COMPLIANCE WITH RELOCATION ASSISTANCE AND PAYMENTS PROVISIONS OF FEDERAL AND STATE LAW:**

Initial one (1) of the following two (2) statements:

- a. No families or businesses are being displaced. _____
- b. Provisions of 49CFR PART 24 relating to assistance for displaced families and businesses are being complied with. _____

(If there are displacements, initial "b" and complete the schedule below)

- 1. Number of dwellings displaced: _____
 - a. Owner-occupied _____
 - b. Rental units _____
- 2. Number of other displacements: _____
 - a. Businesses displaced _____
 - b. Farm operations displaced _____
 - c. Non-profit organizations displaced _____

CERTIFICATE

This project may now be certified as conforming to one of the Statement Nos. (1, 2, 3, 4) below (please place a checkmark in one of the numbers)

Please initial number 5 verifying all laws were followed.

- 1. All necessary rights of way have been acquired including legal and physical possession. _____
- 2. Although all necessary rights of way have not been fully acquired, the right to occupy and to use all rights of way required for the proper execution of the project has been acquired. _____
- 3. The circumstances with respect to acquisition or right of occupancy And use of a few parcels warrant proceeding with the advertisement of bids on the basis it will be in the best public interest to do so in advance of completion of the acquisition of the rights of the said few parcels. _____
- 4. No new right of way required. All existing right of way was obtained prior to January 2, 1971. _____
- 5. We certify all applicable state and Federal rules and regulations including the Uniform Act has been complied with. **Please initial here >>>>>>>>>** _____

Town: _____
Title: _____
By: _____
(Please print name)
Signature: _____
Date: _____

Items that need to be in a parcel file for review

Checklist:

If new Right of Way is needed:

First Items Needed

- _____ Proof of Environmental Clearance (**date only**)
- _____ Authorization to Proceed (Form PR2X from FHWA) (**date only**)
- _____ Certification of Right of Way form completed and signed (original) (name of person authorized to sign)
- _____ Copy of appraisal and re-appraisal if applicable
- _____ Copy of appraisal review, comments and conclusion of value
- _____ Copy of the "JUST COMPENSATION" memo and the amount (signed by authorized person)
- _____ Copy of offer letters (signed)
- _____ Copy of summary statements
- _____ Copy of 100% design plans with new R/W highlighted
- _____ Copy of agents' contact log/diary (signed by agent/s)
- _____ Copy of E-mails sent and received
- _____ Copy of all correspondence from property owners
- _____ Copy of Waiver of Compensation **if used** and justification for them
- _____ Copy of any administrative settlements and justification/documentation in a written memo to the acquisition file
- _____ Copy of all conveying instruments/easements of any kind
- _____ Copy of any condemnation proceedings and all correspondence to property owner in conjunction with condemnation, copies of the "Order to Show Cause" and "Order of Immediate Possession" and the "Judgement

If relocation is involved:

- _____ Copy of all letters and e-mails to property owner and any correspondence to them
- _____ Copy of the "Eligibility Determination" worksheet
- _____ Copy of the moving estimate and /or self move paperwork
- _____ Copy of all final paperwork concerning move
- _____ Property Vacate date

If there was no New Right of Way:

- _____ Proof of Environmental Clearance (**date only**)
- _____ Certification of Right of Way form completed and signed (original)
- _____ Copy of 95% design plans or newer
- _____ Date of any Right of Way previously acquired and by what means (i.e. donations, dedications or by purchase)
- _____ Copy of Right of Way Clearance Letter and memo of Right of Way Clearance

Miscellaneous
Reference Materials

- ADOT Manual (3 Pages)
- Laws
- Process Elements
- "Some ways to lose your Federal money"
- Amendment to the Local Governments Right of Way Section (Manual)
- Waiver of Compensation
- Low value Waiver Valuation form

List of Items Needed From Local Public Agents:

1. Copy of DCR or scoping document with the description of project in the very beginning stages
2. Map of area and plans
3. Short statement if there is new R/W or not; If there is no new R/W, I need statement how they got it, when they got it and what interest they have it under
4. Agency contact and the project manager (name, address and phone # / e-mail)
5. ADOT PM Name & phone #
6. Once project is initiated right of way needs to be kept informed
7. Notified immediately of any R/W changes

List of items needed, when there is R/W needed and they want the project cleared:

1. Certification of Right of Way form completed and signed
2. Copy of appraisal and review of appraisal slip
3. Copy of offer letters
4. Copy of summary statements
5. Copy of 100% plans with new R/W highlighted
6. Copy of agent's contact log/diary
7. Copy of all correspondence from property owners
8. Copy of memo on who set "JUST COMPENSATION" and the \$\$\$ amount
9. Copy of any administration settlements and their justification in a written memo to file
10. Copy of any condemnation proceedings and all letters to property owner in conjunction with condemnation
11. If relocation is involved: need all letters to property owner and any correspondence. Copy of moving estimate and /or self move paperwork; Copy of all final paperwork concerning move

PARCEL FILE SET-UP

**FOR FEDERALLY
FUNDED PROJECTS**

LEFT SIDE OF FOLDER

Steps in the acquisition Process for all Local Public Agents

This is the process for all Local Public Agencies (LPAs) to follow when there is a need for “new right of way”. This is a general overview and not an exact account of what takes place and the timing. If you need an exact account of what transpires, please ask your ADOT Right of Way Liaison.

1. First and most important step is to have an **Environmental Clearance** and the **“Authorization to Proceed”** for the right of way process that is received from FHWA.

a) During the Preliminary Engineering stage some approved right of way procedures may begin. Title reports may be ordered and appraisal bids may be requested from State Certified General appraisers. They may not be hired until “Authorization to Proceed” (AP) has been issued by FHWA.

2. When the AP is completed, the LPA may develop the right of way action plan and start putting together an acquisition timeline.

3. LPA may now hire a State Certified General appraiser. LPA should give a copy of title reports to the appraiser along with a scope of work (definition of the appraisal problem).

4. Once the appraisal is completed it is given back to the LPA, they need to have it reviewed by a State Certified General Appraiser (cannot be the same as the appraiser). The reviewer is the one who recommends the value of the “Just Compensation” for the property.

5. The LPA (must be an agency official, not a consultant) concurs by issuing a memo stating the just compensation amount, the name and title of person writing the memo and he places it in the general project file. This is a good time to update the timeline.

6. The LPA can now develop the offer letter and summary statement. In addition to the offer letter and, they may fill out the conveyance documents Deeds, Easements and Temporary Construction Easements if necessary. They will need approved set of r/w plans and then they can package all of this together and make the offer. This should be done in person unless out of town, then send by Certified Mail with return receipt

7. Once the property owner receives and reviews the offer (Federal Regulations say 30 days minimum). If the offer is accepted, the LPA opens escrow. If the owner declines the offer, the LPA may negotiate or initiate Eminent Domain.

If the owner feels the offer is to negotiate they can do an administrative settlement. all settlements must well documented, justified done in memo form, who made the decision, the amount of the settlement, signed by person that made the decision and placed into the individual project parcel file. If the property owner accepts the settlement, the LPA opens escrow on this parcel.

If the owner declines the offer and negotiations, the LPA can start the Eminent Domain process.

8. when all parcels are acquired, the LPA needs to send the filled out Right of Way Certification form along with copies of all supporting documents to the Right of Way Liaison of ADOT. the appraisal, review appraisal, memo of "Just Compensation", offer letter with summary statement administrative settlement statement, escrow settlement documents and, if there was one. Upon satisfactory review, the Right of way Liaison will issue a Right of Way Clearance letter.

Basic Requirements of the Acquisition Process:

1. Personal contact must be made with property owner.
2. Provide the owner with a written offer of what is believed to be "Just Compensation".
3. Must give owner time to consider offer (Federal Regulations state minimum 30 days).
4. Conduct activities in a non-coercive manner.
5. Provide at least a 90 days notice to vacate property
6. Pay the agreed upon price.

Please ask your ADOT Right of Way Liaison if you need more information.

Items that need to be in a parcel file for review

Checklist:

If new Right of Way is needed:

First Items Needed

- _____ Proof of Environmental Clearance (**date only**)
- _____ Authorization to Proceed (Form PR2X from FHWA) (**date only**)
- _____ Certification of Right of Way form completed and signed (original) (name of person authorized to sign)
- _____ Copy of appraisal and re-appraisal if applicable
- _____ Copy of appraisal review, comments and conclusion of value
- _____ Copy of the "JUST COMPENSATION" memo and the amount (signed by authorized person)
- _____ Copy of offer letters (signed)
- _____ Copy of summary statements
- _____ Copy of 100% design plans with new R/W highlighted
- _____ Copy of agents' contact log/diary (signed by agent/s)
- _____ Copy of E-mails sent and received
- _____ Copy of all correspondence from property owners
- _____ Copy of Waiver of Compensation **if used** and justification for them
- _____ Copy of any administrative settlements and justification/documentation in a written memo to the acquisition file
- _____ Copy of all conveying instruments/easements of any kind
- _____ Copy of any condemnation proceedings and all correspondence to property owner in conjunction with condemnation, copies of the "Order to Show Cause" and "Order of Immediate Possession" and the "Judgement

If relocation is involved:

- _____ Copy of all letters and e-mails to property owner and any correspondence to them
- _____ Copy of the "Eligibility Determination" worksheet
- _____ Copy of the moving estimate and /or self move paperwork
- _____ Copy of all final paperwork concerning move
- _____ Property Vacate date

If there was no New Right of Way:

- _____ Proof of Environmental Clearance (**date only**)
- _____ Certification of Right of Way form completed and signed (original)
- _____ Copy of 95% design plans or newer
- _____ Date of any Right of Way previously acquired and by what means (i.e. donations, dedications or by purchase)
- _____ Copy of Right of Way Clearance Letter and memo of Right of Way Clearance

Miscellaneous
Reference Materials

- ADOT Manual (3 Pages)
- Laws
- Process Elements
- "Some ways to lose your Federal money"
- Amendment to the Local Governments Right of Way Section (Manual)
- Waiver of Compensation
- Low value Waiver Valuation form

PARCEL FILE SET-UP

**FOR FEDERALLY
FUNDED PROJECTS**

Right SIDE OF FOLDER

Environmental Clearance

Cleared Date:

FHWA Authorization to Proceed

Date:



Arizona Department of Transportation
Intermodal Transportation Division

206 South Seventeenth Avenue Phoenix, Arizona 85007-3213

Janice K. Brewer
Governor

John S. Hallkowski
Director

Floyd Roehrich Jr.
State Engineer

Date:

City / County

Via e-mail

RE: Project: CM SUR 0(204)X / MA SUR SS 676 01C
Section: Greenway Road Cotton Lane to Grand Avenue
Subject: Right of Way Certification

Dear Mr.:

You are hereby notified that the right of way certification for the referenced project has been accepted and approved by the Arizona Department of Transportation indicating compliance with applicable federal laws and regulations. Right of Way has hereby been cleared.

If you have any questions or comments, please contact me at (602) 712-8755, by FAX at (602) 712-3051, or in writing at the above address.

Sincerely,

Louis J. Malloque

LOUIS MALLOQUE
Right of Way Agent III
lmalloque@azdot.gov

RIGHT OF WAY CERTIFICATION

PROJECT: _____

HIGHWAY: _____

SECTION: _____

The County/City of _____ hereby certifies in connection with the right of way for
_____ that:

All required right of way for construction of this project has now been acquired, or is covered by Right of Entry or Order of Immediate Possession, except as noted in Certificate, as set forth in detail below:

1. STATUS OF NEW RIGHT OF WAY:

- a. Total number of parcels required _____
- b. Parcels acquired by purchase _____
- B1. Amount of Federal dollars spent on acquisition \$ _____
- B2. Amount of Local dollars spent on acquisition \$ _____
- d. Parcels acquired by dedication _____
- e. Parcels covered by Right of Entry _____
- f. Parcels covered by Order of Immediate Possession _____

2. RIGHT OF WAY ACQUIRED FOR OTHER PURPOSES:

Was any right of way not included above acquired since January 1, 1971?

Yes _____ No _____

(If answer is "Yes", attach a statement listing each such parcel indicating the date and how it was acquired)

3. SCHEDULE FOR REMOVAL OF IMPROVEMENTS AND OBSTRUCTION

Initial one (1) statement below:

- a. No improvements or obstructions are involved. _____
- b. Removal of improvements and obstructions is included in the State's construction contract. _____
- c. Improvements and obstructions will be removed by City/County forces or by separate contract prior to _____ (Date) _____

(If "c" is checked, attach detailed list with schedule of their removal)

4. PARCEL INVENTORY:

Attached hereto is an inventory listing each parcel required for this project. The listing shows parcel number, name of owner, interest acquired, or to be acquired, and status of acquisition (acquired, Right of Entry, Order of Immediate Possession, or other). N/A See attached

5. **COMPLIANCE WITH RELOCATION ASSISTANCE AND PAYMENTS PROVISIONS OF FEDERAL AND STATE LAW:**

Initial one (1) of the following two (2) statements:

- a. No families or businesses are being displaced. _____
- b. Provisions of 49CFR PART 24 relating to assistance for displaced families and businesses are being complied with. _____

(If there are displacements, initial "b" and complete the schedule below)

- 1. Number of dwellings displaced: _____
 - a. Owner-occupied _____
 - b. Rental units _____
- 2. Number of other displacements: _____
 - a. Businesses displaced _____
 - b. Farm operations displaced _____
 - c. Non-profit organizations displaced _____

CERTIFICATE

This project may now be certified as conforming to one of the Statement Nos. (1, 2, 3, 4) below (please place a checkmark in one of the numbers)

Please initial number 5 verifying all laws were followed.

- 1. All necessary rights of way have been acquired including legal and physical possession. _____
- 2. Although all necessary rights of way have not been fully acquired, the right to occupy and to use all rights of way required for the proper execution of the project has been acquired. _____
- 3. The circumstances with respect to acquisition or right of occupancy And use of a few parcels warrant proceeding with the advertisement of bids on the basis it will be in the best public interest to do so in advance of completion of the acquisition of the rights of the said few parcels. _____
- 4. No new right of way required. All existing right of way was obtained prior to January 2, 1971. _____
- 5. We certify all applicable state and Federal rules and regulations including the Uniform Act has been complied with. **Please initial here >>>>>>>>>>** _____

County/City: _____

Title: _____

By: _____
(Please print name)

Signature: _____

Date: _____

SUMMARY APPRAISAL

Parcel No.: 7-123014

Owner's Name: Arizona Land Trust

Property Location: South side of I-12, just west of Airport Road,
Bugtussel, Arizona

Project No.: I-12-3(25)

Highway: I-12

Section: Bugtussel Interstate Freeway TI

Date of Appraisal: August 6, 2010

Date of Valuation: July 21, 2010

Appraiser: Dewey C. Howe
Certified General Real Estate Appraiser 123872

(INCLUDE ENTIRE REPORT)

**FOR INTERNAL ADOT USE ONLY
ARIZONA DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY GROUP**

Total Acquisition

APPRAISAL REVIEW SUMMARY AND VALUATION RECOMMENDATION

Project: 010 PN 210 H7696 01R	Highway: Casa Grande - Tucson
Section: I-10 – SR 87 TI	Parcel (11-0XXX) - Joe Smith

	Appraiser: <u>Dewey, Chetm & Howe</u>			VALUATION RECOMMENDED FOR ACQUISITION
	Date of Value: <u>7/2/10</u>			
	Date of Report: <u>10/07/10</u>			
Appraisal documented and Acceptable as to ADOT Standards and Specifications.....	YES NO	YES NO	YES NO	
Land.....	<input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<u>\$50,000</u>
Improvements.....	<u>\$30,000</u>			<u>\$30,000</u>
Severance Damages.....				
Cost to Cure.....				
Special Benefits.....				
Total.....	<u>\$80,000</u>			<u>\$80,000</u>

The brief purpose & scope of this review is: 1) to determine if the subject appraisal(s) are appropriately documented and acceptable as to ADOT Standards & Specifications; and 2) to recommend the compensation for use by the Arizona Department of Transportation Right of Way Group (Client) in negotiating the acquisition from the subject parcel. Additional Scope, Assumptions, Limiting Conditions & Certification in the reviewer work file. The review is based on information and data contained in the appraisal report(s) identified above

General:

The property is improved with a 11,000sf. store located at 1234 Front Street , in Dryspot , Arizona.

The site is a rectangular shape parcel containing 26,595 square feet per the RW Plans. It is within a few hundred feet of the AT&SF Rail Road line.

The site has access to Front Street. It does not have direct access to I-12.

There are public utilities to the property, which include electric, water, and gas. There is no sewer to the site at this time.

This property is zoned CB-2, General Business, which is in the jurisdiction of Hazard County.

The H&BU – is continued residential use.

Improvements:

A 1950-built 11,000sf store. It is masonry construction with storefront glazing, in fair condition, with sales office and bath rooms. There is a 72 car parking lot in front , and 4-car covered employee parking in rear.

The property owner accompanied on the inspection of the property.

The current zoning is commercial but allows single-family residential use. Current demand for commercial or residential use is poor.

Sales History:

The appraiser notes that no sales of the property have occurred in the last 5 years. There are taxes due on the property.

Site Value:

Four Sales were used, generally located within similar competitive market areas as the subject. The sales occurred between 5/08 and 6/10, with an adjusted range from \$72,000 to \$95,000. After considerations for adjustments and a final analysis, a value for the property was estimated at \$80,000.

Area to be Acquired:

The property area to be acquired is a portion of the land needed for a realignment of I-12, to improve safety by improving the roadway curve geometry.

The appraiser's valuation is considered an opinion, with reasonable judgment and analyses; and the conclusions are considered to be appropriate and consistent with the scope of the appraisal assignment. Therefore, the report is recommended in the use of the administrative functions for the Right of Way Group/ADOT.

I certify that, to the best of my knowledge and belief:

- The facts and data used in the review process and reported herein are true and correct. I have not re-verified all of the data provided in the appraisal report(s) under review.
- The analyses, opinions and conclusions in this review are limited only by the assumptions and limiting conditions and are my personal and unbiased professional analyses, opinions and conclusions.
- I have no direct or indirect personal interest, present or contemplated, in the subject property, or in any benefit from the acquisition of this property.
- I have no bias with respect to the subject property or to the parties involved.
- My compensation is not contingent on an action or event resulting from the analyses, opinions or conclusions in, or the use of, this review report.
- My analyses, opinions and conclusions were developed and this review report was prepared in conformity with the U.S.P.A.P.
- I personally inspected I did not inspect the subject property of the report under review.
- I personally inspected I did not inspect the comparable sales included in the report under review.
- No one provided significant professional assistance in my development of this review report.
- I have completed the requirements of the continuing education programs of the state of Arizona in which I am certified and the professional appraisal associations to which I belong.

Assumptions and Limiting Conditions:

1. Possession of this review does not carry with it the right of publication
2. This review is intended for the internal use of ADOT, Right Way Group. This review shall not be disseminated through advertising, public relations, news, sales, or other media.
3. This review constitutes a limited assignment and should not be construed as an appraisal of the subject property.
4. The analyses, opinions, and conclusions in this review report are based solely on the data, analyses, and conclusions contained in the appraisal report under review. It is assumed that these data in the appraisal report are representative of existing market conditions, factual and accurate. No attempt, unless otherwise stated, has been made to obtain additional market data for this review.
5. The reviewer reserves the right to consider any new or additional data or information, which may subsequently become available.
6. The reviewer reserves the right to reconsider the conclusions reached in this review should the property rights valued change from those stated herein and in the appraisal report under review.
7. Unless otherwise stated in this report, the existence of hazardous substances, including without limitation asbestos, polychlorinated biphenyls, petroleum leakage, or agricultural chemicals, which may or may not be present on the property, or other environmental conditions, were not called to the attention of nor did the appraiser become aware of such during the appraiser's inspection. The appraiser, however, is not qualified to test such substances or conditions. If the presence of such substances, such as asbestos, urea formaldehyde foam insulation, or other hazardous substances or environmental conditions, may affect the value of the property, the value estimated is predicated on the assumption that there is no such condition on or in the property or in such proximity thereto that it would cause a loss in value. No responsibility is assumed for any such conditions, nor for any expertise or engineering knowledge required to discover them.
8. Americans with Disabilities Act of 1990. The ADA became effective on January 26, 1992. I have not made a specific compliance survey and analysis of this property to determine whether or not it is in conformity with the various detailed requirements of the ADA. It is possible that a compliance survey of the property, together with a detailed analysis of the requirements of the ADA, could reveal that the property is not in compliance with one or more of the requirements of the Act. If so, this fact could have a negative effect on the value of the property. Since I have no direct evidence relating to this issue, I did not consider possible noncompliance with the requirements of ADA.
9. All analyses and conclusions expressed by the reviewer are limited by the scope of the review process as defined herein or in the reviewer work file.

I understand that this recommendation of compensation may be used in connection with a public highway project. This recommendation has been reached independently based on the appraisal(s) or other factual data as set forth above, without collaboration or direction and the value estimation is of items compensable under State law and the non-eligible items for Federal reimbursement, if any, are set forth.

AGENCY APPROVAL:

George Blinder
Review Appraiser/Arizona Certified
General Real Estate Appraiser #130555

Assistant Chief Right of Way Agent Date

ACKNOWLEDGMENT (if over \$750,000):

Date: 9/05/11

Deputy Chief Right of Way Agent Date

JUST COMPENSATION MEMO

I _____ hereby set my name and signature to what I believe to be "Just Compensation" amount. I have used the "what is believed to be Just Compensation as stated by the Appraiser in the Appraisal Review.

Name: _____

Title: _____

Date: _____



Arizona Department of Transportation
Intermodal Transportation Division

206 South Seventeenth Avenue Phoenix, Arizona 85007-3213

Janet Napolitano
Governor

Victor M. Mendez
Director

Sam Eilers
State Engineer

RE: Project:
Highway:
Section:
Parcel:

The State of Arizona Department of Transportation presents its offer of _____ for the property rights needed in connection with the above project. Attached is a summary of the offer.

Provided is a map showing how your land is affected by this project, a booklet entitled *Your Property Your Highways* explaining the State's program for acquiring rights-of-way, and a copy of the independent appraisal upon which the offer is based.

Also enclosed are the documents necessary to transfer your property rights to the State. If you accept the offer, please sign all documents on the appropriate lines provided, and in cases where notarization is indicated, have your signature(s) acknowledged before a notary public. The documents marked "Your Copy" may be retained for your records.

After the signed documents are returned they will be processed in accordance with the terms of the *Purchase Agreement*, and in compliance with the laws of the State. A pre-addressed, postage-paid return envelope is included for your convenience. Processing time and final payment is generally 30-60 days after the signed documents are received from you; however, unusual circumstances may increase this time.

If you have any questions, please contact me at 205 South 17th Avenue, Mail Drop 612E, Phoenix, Arizona 85007, or call 602-712-_____. Thank you for your consideration.

Sincerely,

_____, Right of Way Agent
Acquisition Section
Right of Way Group

Attachment/Enclosures



2001 Award Recipient



Arizona Department of Transportation
Intermodal Transportation Division

206 South Seventeenth Avenue Phoenix, Arizona 85007-3213

Janet Napolitano
Governor

Victor M. Mendez
Director

Sam Elters
State Engineer

RE: Project:
Highway:
Section:
Parcel:

Dear _____ :

The State of Arizona Department of Transportation presents its offer of \$ _____ for the property rights needed in connection with the above project. Attached is a summary of the offer.

Provided is a map showing how your land is affected by this project, a booklet entitled *Your Property Your Highways* explaining the State's program for acquiring rights-of-way, and the comparable sale information upon which the offer is based.

Also enclosed are the documents necessary to transfer your property rights to the State. If you accept the offer, please sign all documents on the appropriate lines provided, and in cases where notarization is indicated, have your signature(s) acknowledged before a notary public. The documents marked "Your Copy" may be retained for your records.

After the signed documents are returned they will be processed in accordance with the terms of the *Purchase Agreement*, and in compliance with the laws of the State. A pre-addressed, postage-paid return envelope is included for your convenience. Processing time and final payment is generally 30-60 days after the signed documents are received from you; however, unusual circumstances may increase this time.

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Sincerely,

, Right of Way Agent
Acquisition Section
Right of Way Group

Attachment/Enclosures



2001 Award Recipient

ARIZONA DEPARTMENT OF TRANSPORTATION (ADOT)
RIGHT OF WAY GROUP – STATEWIDE/URBAN ACQUISITION SECTION

**SUMMARY STATEMENT OF OFFER TO PURCHASE
AND
IMPROVEMENT REPORT**

This statement accompanies our letter of _____ and shows the basis on which the offer is made.

A. IDENTIFICATION OF THE PROPERTY

The land is identified as _____
County, Arizona

also known as Assesor Parcel No(s).

B. THE ESTATE OR INTEREST NEEDED

The estate or interest needed is as follows (indicated by an "X"):

- | | |
|---|-------------|
| <input type="checkbox"/> Fee interest, new area (by Warranty Deed) | Square Feet |
| <input type="checkbox"/> Underlying fee interest (existing rights-of-way included in Warranty Deed) | Square Feet |
| <input type="checkbox"/> Easement for new area (Permanent) | Square Feet |
| <input type="checkbox"/> _____ Easement (Permanent) | Square Feet |
| <input type="checkbox"/> Temporary Construction Easement | Square Feet |
| <input type="checkbox"/> | Square Feet |

C. THE OFFER AS JUST COMPENSATION, AND BREAKDOWN

The amount offered represents just compensation, and is the result of a review and analysis of an appraisal made by a certified real estate appraiser. If only part of the property is needed, full consideration has been given to the value of the remaining property, including items requiring compensation on a "cost-to-cure" basis, if any. The analysis of the remaining property takes into account the effect of the acquisition of the land needed, and the establishment and construction of the project. A breakdown of the offer is as follows:

Land, including improvements:	\$
Severance Damages to remaining property (possible on partial acquisitions only):	\$
"Cost-to-Cure" compensation involving a facility or component on the remaining property:*	\$
	\$
Total Just Compensation:	\$

*Explanation of "Cost-to-Cure" items: N/A

Project:

Section:

Parcel:

D. THE IMPROVEMENTS

THE IMPROVEMENTS ACQUIRED AS A PART OF THE PURCHASE ARE DESCRIBED AS FOLLOWS:

COMMENTS AND/OR EXCLUSIONS:

PERSONAL PROPERTY NOT ACQUIRED (INCLUDES ITEMS NOT PERMANENTLY ATTACHED):

E. THE DOCUMENTS NEEDED

Following is a summary of the documents requiring your signature (indicated by "X"):

Purchase Agreement. This document shows the terms of the transaction, and Exhibit "A" on the back provides the exact legal description. Please note that the State will pay the cost of title search, escrow and recording, as needed.

Warranty Deed (to be notarized)

Extended Occupancy Agreement

Right of Way Contract (to be notarized)

Easement (to be notarized)

Temporary Construction Easement

Arizona Substitute W-9 Form

Summary Statement of Offer to Purchase and Improvement Report (see below)

F. SECURITY DEPOSIT INFORMATION AND ACKNOWLEDGMENT

The Arizona Department of Transportation shall withhold \$ _____ in escrow, as a security deposit, in accordance with Purchase Agreement.

G. SUBSURFACE IMPROVEMENT STATEMENT

1. I am am not aware of the presence of any subsurface improvements, (e.g., septic systems, storm cellars, ground wells) within the area of ADOT's acquisition.*

2. Irrigation Water Rights/Well(s) Yes No. Well Registration No(s): _____
(NOTE: If you answered yes regarding water rights, please provide a copy of the appropriate certificate)

*If aware of any such improvements, please provide any information that may assist in locating same.

GRANTOR

_____ Date _____

_____ Date _____

Copy of 100% Plans



RIGHT OF WAY ACQUISITION SECTION

CONTACT REPORT



Owner or Tenant Site:

Name: Earl and Ruby Murphy
Address: 2180 W. Dark Star Road
City: Benson
State: AZ Zip: 85602

Mailing Address:

Name:
Address:
City:
State: Zip:

Contact:

Name: Earl or Ruby
Phone: 520-586-2759
Pager:
Cell Phone: 765-376-5805
Fax:

CONTACT HISTORY

1/15/09 Louie Alcocer forwarded the file for Earl and Ruby Murphy, displace on the parcel owned by Calvary Baptist Church which is off an access road on I-10 and State Route 90. The project is Tucson-Benson Highway, Skyline T.I. to Ocotillo T.I. for enhancing the interchange and straightening roadway curves along I-10 (Project is a safety issue). The Murphy's resided in a 1987 Bounder, class A, 34' RV Motor Home and it is stated in the interview they pay no lot space rent, and has full RV hook-ups. It also stated the RV no longer runs. They pay no Lot Space Rent in exchange for care taking as a service to God. They pay approx. \$20 for utilities, as a donation to church. The survey states that Earl and Ruby have a combined income from SS and retirement of \$2,110.26 monthly. Earl and Ruby are 88 and 77 years of age and I believe that extreme care will be needed in relocation because of their age. They wish to remain with the church as the church is there support system. This is Last Resort Housing

I checked 49 CFR 24.402(b) (2) (ii) for Low Income. The low income for Cochise County for two people is \$30,800 which means that Earl and Ruby Murphy are low income (\$25,320).

They will be entitled to Lot Space Rent, but have stated that they wish to move with church to the new location. This is Last Resort Housing; therefore; the Lot Space Rent is approve even though the will end up back with the church after the church's new facility has been build. They will need to pay Lot Space Rent and

NICKIE WIDDER, Acquisition R/W Agent, 602-712-8503

Project: 010 CH 289 H650 401R Highway: TUCSON – BENSON HIGHWAY
Section: Skyline T.I. – Ocotillo T.I. Parcel: 2-1076-MH-001

utilities until the unit can be move to the church property. The church is building a on the parcel of land and that will be the reason for the delay.

There is an RV Park in Benson, "Benson I-10 RV Park. The Park's regular rates are \$26-28 dollars a day, or \$250 monthly; however; most parks will not rent to an RV that are this old and condition.

The survey states that the RV is DS&S and if so we could pay to have it towed or repair the RV to be drivable or at least movable (tires, motor work).

They have a sheds and in past experience it is more economical to move the shed contents and purchase replacement shed. (May be a deliver charge as Sierra Vista is the nearest Lowes and Home Depot.)

The survey also states they have a porch and a handicap ramp. A handicap ramp on a replacement property will be needed.

I feel a site visit would be appropriate.

1/20/09

Louie Alcocer and I meet with Larry Pondoff, Pastor, and Earl Murphy, tenant, moving companies, Paul from Daniels and Vince from Horizon Mover to obtain bids for moving the contents of the RV and the 2 storage sheds. We were going to get a bid to move the 1987, 34' Bounder but after viewing the RV, Louie Alcocer and I agreed that it is **non-DS&S** plus It has been sitting in this space since 1999 and the probability of damage to the RV's plumping and electric if moved and in very worn condition. The tires were cracked and damaged, plus its support by wooden jacks stands, the floor is squishy and it does not run.

Earl told us that Ruby had a pace maker put in very recently so handicap features will be needed.

I gave Earl a reassignment letter and my business card stating if he had questions to call.

1/21/09

A replacement house payment will need to be calculated.

I telephoned the movers and asked them to change the move bid to the 2 shed and contents of RV.

They will need to store the items in the 2 sheds.

2/2/09

Telephoned Wilharm Self Storage in Benson (520-586-3146) 118 W. Silverwood, Benson. I spoke with Mrs. Wilharm and she said that is a Mom & Pop type place

NICKIE WIDDER, Acquisition R/W Agent, 602-712-8503

Project: 010 CH 289 H650 401R

Highway: TUCSON - BENSON HIGHWAY

Section: Skyline T.I. - Ocotillo T.I.

Parcel: 2-1076-MH-001

COPIES of ALL

PROPERTY OWNERS

CORRESPONDANCE

Copy of the
ADMINISTRATIVE
SETTLEMENT

And

COPIES OF ALL
DOCUMENTS

Copies of all CONVEYING

Instruments

And

Easements of Any Kind

Copies of All
Condemnation Proceedings

i.e.

Copy of "Order to Show
Cause"

Copy of "Order of
Immediate Possession

Copy of Judgement

RELOCATION

What is Needed?

ASK the ADOT LIAISON!

APPRAISAL WAIVER

MARKET ANALYSIS & PROPOSED OFFER WORKSHEET

Project: _____ Parcel: _____
 Highway: _____ Owner: _____

COMPARABLE MARKET DATA								
Assessor Parcel #	Sale Date	Sales Price Per Unit	GENERAL ADJUSTMENT FEATURES				ADJUSTED UNIT VALUE	
			Size	Zoning	Topography	Location		Other
RECOMMENDED LAND UNIT VALUE:								

NOTE: The above sale/listing data was obtained from sources such as Comps of Arizona, TRW/REDI, Multiple Listing Service, etc. and may not have been independently confirmed. This document **MUST** be accompanied by copies of real estate comparables, maps and all supporting documentation. If using a % of fee, it must be spelled as to why and all pertinent information be attached.

ACQUISITION FROM SUBJECT PROPERTY: Area: _____
 Type of Interest: _____
 Highest and best use: unchanged changed (see comments)

COMMENTS: (re: access, shape, location, topography, intensity of use for partial interests, minor improvements/cost-to-cure, etc.)

PROPOSED OFFER: \$ _____ **CALCULATIONS:** $\frac{\$}{\text{Unit Value}} \times \text{Area} \times \text{\% of Fee} = \text{Total Land}$
 Add for minor improvement value or Cost-to-Cure: \$ _____

CONCURRENCE: _____
PRINTED NAME: _____ Date _____

SAMPLE

**Waiver of Compensation
for -----
Project**

In 2004, you donated a public ----- for the citizen-initiated -----Project, being made possible through a federal transportation enhancement grant.

According to federal regulations you can be compensated for such easement or receive an appraisal of the donated land as provided for in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

Please sign below with a Notary Public acknowledging that you are waiving compensation for the previously donated ----- and/or the right to an appraisal of the donated land. Thank you.

Landowner:

Printed name: _____

Signature: _____

Parcel # (s) _____

STATE OF ARIZONA)
) ss.
County of)

The foregoing instrument was acknowledged before me this ____ day of _____, 2007, by _____, the _____ of _____, personally known to me or proven to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed it.

[Seal]

Notary Public

SAMPLE

These are some of the reference materials for ROW.

The two (2) most important are:

The FHWA Office of Real Estate Services web site is
<http://www.fhwa.dot.gov/realestate>

ADOT ROW <http://www.azdot.gov/Highways/ROW/>

ADOT Right of Way Procedures Manual: Urban and Statewide
Acquisition Sections
<http://www.azdot.gov/highways/row/urban.asp> and
http://www.azdot.gov/highways/row/PDF/9370-9380_Manual.pdf

ADOT Guidelines for Highways on Bureau of Land Management and U.S. Forest
Service Lands 2008
[http://www.azdot.gov/Highways/Roadway_Engineering/Roadside_Development/
HwyBLM_USFS.asp](http://www.azdot.gov/Highways/Roadway_Engineering/Roadside_Development/HwyBLM_USFS.asp)

U.S. Department of Transportation Notice: Federal Environmental Laws and
Executive Orders Applicable to the Development and Review of Transportation
Infrastructure Projects
[http://www.federalregister.gov/articles/2004/05/06/04-10308/federal-
environmental-laws-and-executive-orders-applicable-to-the-development-and-
review-of](http://www.federalregister.gov/articles/2004/05/06/04-10308/federal-environmental-laws-and-executive-orders-applicable-to-the-development-and-review-of)

FHWA Guidance Memo on Preliminary Jurisdictions
http://environment.fhwa.dot.gov/ecosystems/laws_usacememo.asp

FHWA Wetland Policy (23 CFR 777) – Mitigation of Impacts to Wetlands and
Natural Habitat
<http://www.fhwa.dot.gov/hep/23cfr777.htm>

U.S. Army Corps of Engineers Los Angeles District Regulatory Division Website
<http://www.spl.usace.army.mil/regulatory/>

EPA Electronic Stormwater Notice of Intent (eNOI) Website
<http://cfpub.epa.gov/npdes/stormwater/enoi.cfm>

EPA Region 9: Water Program, NPDES Wastewater and Stormwater Permits
<http://www.epa.gov/region9/water/npdes/index.html>

EPA Stormwater Program
http://cfpub.epa.gov/npdes/home.cfm?program_id=6

EPA View Stormwater NOIs (NOI Search Website)
<http://cfpub.epa.gov/npdes/stormwater/noi/noisearch.cfm>

Council on Environmental Quality
<http://ceq.hss.doe.gov/>

EPA Compliance and Enforcement
<http://www.epa.gov/compliance/index.html>

ADOT Policy for Accommodating Utilities on Highway Rights-of-Way
<http://www.azdot.gov/Highways/utilities/guides.asp> and
http://www.azdot.gov/Highways/utilities/pdf/guide_a.pdf

ADOT Utilities and Railroad Engineering Section Website
<http://www.azdot.gov/Highways/utilities/index.asp>

ADOT Utility Coordination Guide for Design Consultants
<http://www.azdot.gov/Highways/utilities/guides.asp> and
http://www.azdot.gov/Highways/utilities/pdf/guide_c.pdf

ADOT Statewide utility permit logs
<http://www.azdot.gov/Highways/utilities/loglist.asp>
(Contact Central Maintenance Permits at (602) 712-7386 or District Permits at (602) 712-7522 for current permit information)

Arizona Blue Stake
<http://www.azbluestake.com/>

FHWA Area Engineer Manual
(Contact: Jeff Lewis at (916) 498-5035, jeff.lewis@dot.gov)

FHWA and ADOT Stewardship and Oversight Agreement for Arizona
<http://www.fhwa.dot.gov/federalaid/stewardship/agreements/az.cfm> and
http://www.azdot.gov/Highways/ConstGrp/PDF/FHWA-ADOT_StewardshipAgreement.pdf

FHWA Program Guide for Utility Relocation and Accommodation on Federal-Aid Highway Projects
<http://www.fhwa.dot.gov/reports/utilguid/>

FHWA Railroad-Highway Grade Crossing Handbook - Revised Second Edition
August 2007

<http://www.ite.org/bookstore/gradecrossing/sec01.htm>

FHWA Utilities Program Website

<http://www.fhwa.dot.gov/programadmin/utility.cfm>

Maricopa County Department of Transportation, A General Guide for The
Railroad & Corporation Commission Application/Construction Process

<http://www.mcdot.maricopa.gov/technical/home.htm> and

<http://www.mcdot.maricopa.gov/technical/eng-manuals/railroad.pdf>

Pima County Department of Transportation, Roadway Design Manual, 3rd
edition, 2010

<http://dot.pima.gov/transeng/> and

<http://dot.pima.gov/transeng/roaddesign/RoadwayDesignManual.pdf#page=1>

ADOT Red-Line and As-Built Procedure and Guidelines

<http://www.azdot.gov/highways/swprojmgmt/> and

<http://www.azdot.gov/highways/swprojmgmt/pdf/redlinesasbuilt.pdf>

Right of Way Group: (602) 712-7316

<http://www.azdot.gov/Highways/ROW/> **Arizona State Land Department**

<http://www.land.state.az.us/index.html#Index.asp>

Counties—Flood Control

Coconino County Community Development: (928) 679-8850

<http://www.coconino.az.gov/comdev.aspx?id=141>

Cochise County Highway and Floodplain Department: (520) 432-9300

http://cochise.az.gov/cochise_highways_floodplain.aspx?id=266

Gila County Public Works: (928) 425-3231

<http://co.gila.az.us/index.html>

Maricopa County Flood Control District: (602) 506-1501

<http://www.fcd.maricopa.gov/index.aspx>

Mohave County Flood Control District: (928) 757-0925

<http://www.co.mohave.az.us/ContentPage.aspx?id=124&cid=392>

Pima County Regional Flood Control District: (520) 243-1800

<http://rfcd.pima.gov/>

Santa Cruz County Flood Control: (520) 375-7800
http://www.co.santacruz.az.us/public_works/flood_control.html

Yavapai County Flood Control Prescott: (928) 771-3197
<http://www.co.yavapai.az.us/Content.aspx?id=15924>

Yavapai County Flood Control Cottonwood: (928) 639-8151
<http://www.co.yavapai.az.us/Content.aspx?id=15924>

Yuma County Flood Control: (928) 817-5000
<http://www.co.yuma.az.us/index.aspx?page=780>

FHWA

Arizona Division Staff
<http://www.fhwa.dot.gov/azdiv/staff.htm>
4000 N. Central Avenue, Ste. 1500
Phoenix, Arizona 85012-3500
Phone: (602) 379-3646
Fax: (602) 382-8998

LPA FHWA Division Office/Resource Center Coordinator for Arizona (Highway Engineer): (602) 382-8972

LPA State Coordinator for Arizona (Local Government Section Manager): (602) 712-8683

Office of Civil Rights: (202) 366-0693
<http://www.fhwa.dot.gov/civilrights/index.htm>

Office of Program Administration, LPA Contact: (202) 366-4630
<http://www.fhwa.dot.gov/programadmin/>

Other

Arizona Blue Stake
Statewide: 1-800-STAKEIT (1-800-782-5348)
Maricopa County: (602) 263-1100
<http://www.azbluestake.com/>

U.S. Army Corps of Engineers

<http://www.spl.usace.army.mil/regulatory/>

- Los Angeles District Regulatory Division: (213) 452-3425
Mailing: P.O. Box 532711, Los Angeles, CA 90053-2325
Office: 915 Wilshire Blvd., 11th Floor, Los Angeles, 90017-3401
- Arizona Branch Office: (602) 230-6949
3636 N. Central Ave., Suite 900 Phoenix, AZ 85012-1939
 - Arizona Branch Chief: (602) 230-6950
 - Cochise, Santa Cruz, Graham, Greenlee and Gila Counties : (602) 230-6952
 - La Paz, Mohave, Yuma, and Pima Counties, Colorado River: (602) 230-6954
 - Maricopa, Navajo, and Apache Counties: (602) 230-6955
 - ADOT Projects: (602) 230-6956
- Tucson Field Office: (520) 584-1684
5205 E. Comanche St., Davis Monthan AFB, AZ 85707
 - Pima, Coconino and Yavapai Counties: (520) 584-1677

Hard Rock Mining and Special Projects: (520) 584-1684

Executed JPA Search Engine (includes scanned copies of JPAs)

<http://www.azdot.gov/eCMS/JPASearch.aspx>

Executing JPAs

http://www.azdot.gov/highways/SWProjMgmt/enhancement_scenic/enhancement/Enhancement Common/Implement Joint Project Agreements.asp

ADOT MGT-16.01 Department-wide Native Nation/Tribal Government Consultation Policy

<http://www.aztribaltransportation.com/aztt/index.asp> (see the AZ Tribal Consultation Policy link under the Policies and Notifications Tab) and http://aztribaltransportation.org/aztt/PDF/MGT_1601.pdf

ADOT Transportation Planning and Programming Guidebook for Tribal Governments

<http://www.aztribaltransportation.com/links.asp> and

[http://www.aztribaltransportation.org/aztt/PDF/Transportation Planning Programming Gdbk Tribal Govts.pdf](http://www.aztribaltransportation.org/aztt/PDF/Transportation_Planning_Programming_Gdbk_Tribal_Govts.pdf)

ADOT Tribal Consultation Policy Annual Report

<http://www.aztribaltransportation.com/aztt/index.asp> (under the Policies & Notifications tab)

Arizona Tribal Transportation Website

<http://www.aztribaltransportation.org>

Federal laws and regulations – regulations for applying Federal law:

49 CFR Part 24 – Transportation.

23 CFR –Part 710 Highways

The FHWA Office of Real Estate Services web site is

<http://www.fhwa.dot.gov/realestate>

ADOT ROW <http://www.azdot.gov/Highways/ROW/>

B O R:

Randy Chandler, Area Manager Phoenix Area Office 6150 West Thunderbird Road Glendale AZ 85306-4001	623-773-6215 fax: 623-773-6485	PXAO-1000
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